

**CHAPTER 90
LIQUOR AND TAVERN REGULATIONS**

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90-1 Liquor and Tavern Regulations

90-1. Definitions. 1. APPLICATION shall mean a formal written request filed with the city clerk for the issuance of a license, supported by a verified statement of facts.

2. BAR shall mean a counter or article of tavern furniture fully equipped with plumbing, sinks or washbasins, and workboards that is used for the sole purpose of dispensing and serving food and beverages directly to customers. A "service bar" shall mean a counter or article of tavern furniture at which intoxicating liquors or fermented malt beverages may be served, but no stools, chairs or other articles of furniture shall be placed at the service bar for customers to sit upon.

3. BOTTLER shall mean any person, firm or corporation, other than a brewer, who shall place in bottles fermented malt beverages as hereinafter defined, for the purpose of sale, barter, exchange, transportation, offering for sale or having in possession with intent to sell.

4. BREWER shall mean any person, firm or corporation who shall manufacture for the purpose of sale, barter, exchange or transportation fermented malt beverages as defined herein.

5. CLASS "B" TAVERN LICENSE shall mean the document combining the Class "B" retailer's intoxicating liquor license, and the Class "B" fermented malt beverage retailer's license, to embody formal permission from the city to sell or offer for sale intoxicating liquors and fermented malt beverages.

6. CLUB shall mean an organization, whether incorporated or not, which is the owner, lessee or occupant of a building used exclusively for club purposes, and which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain; except that where such club is located in an office or business building it may be licensed as such provided it otherwise qualifies as a club within the meaning of this subsection.

7. CORPORATION shall mean a form of business organization that may have many owners with each owner liable only for the amount of his investment in the business.

8. FERMENTED MALT BEVERAGES shall mean any liquor or liquid capable of being used for beverage purposes, made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without

unmalted grains or decorticated and degerminated grains or sugar containing 1/2 of 1% or more of alcohol by volume.

9. GAMBLE shall mean to play or game, for money or other stake; hence to stake money or other thing of value on an uncertain event.

10. GAMBLING HOUSE shall mean a building, place or room for use as a place to gamble, or to keep or exhibit for the purpose of gaming, any bank, table, alley, machine, wheel or device.

11. HOTEL shall mean an establishment open to the public offering lodging and food for travelers that is owned, leased, or operated by a person holding a duly issued and valid license as an innkeeper.

12. HOUSE OF PROSTITUTION shall mean a brothel; a building, place or room maintained for purposes of prostitution as defined in s. 944.30, Wis. Stats.

13. IMMEDIATE FAMILY. In this chapter the term "immediate family" of the Class "B" licensee shall include only the spouse, son, daughter, father, mother, mother-in-law, father-in-law, son-in-law or daughter-in-law of the Class "B" licensee having the same abode and domicile.

14. INCOME shall mean the dollar amount of gross receipts from sales on a licensed premises in any calendar month during the license year.

15. INTOXICATING LIQUORS shall mean all ardent spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing 1/2 of 1% or more of alcohol by volume, which are fit for use for beverage purposes, but shall not include "fermented malt beverages" as defined herein.

16. LEGAL DRINKING AGE means 21 years of age.

17. LICENSE shall mean the document embodying formal permission from the city to carry on a certain activity, the conduct of which would otherwise be illegal.

18. LICENSEE shall mean the person licensed under the provisions of ch. 90; the one who holds the license.

19. OBJECTION shall mean any information that could form the basis of a license denial, non-renewal, suspension or revocation. An objection may result from

probative information provided by any resident or from the written reports summarizing the arrest and convictions of an applicant filed by the chief of police pursuant to this chapter.

20. OFFICER shall mean a person who is elected or appointed to serve in a position of trust, authority or command within an organization, business or social club.

21. OPERATOR shall mean any person who shall draw or remove any fermented malt beverage for sale or consumption from any barrel, keg, cask, bottle or other container in which fermented malt beverages shall be stored or kept on premises requiring a Class "B" license, for sale or service to a consumer for consumption in or upon the premises where sold; or one who shall sell or serve intoxicating liquor to customers upon premises operated under a retail Class "A" or Class "B" intoxicating liquor license or retail Class "C" wine license; or who shall sell bottled intoxicating liquors or bottled and canned fermented malt beverages on a premises requiring a Class "A" retailer's intoxicating liquor license or a Class "A" fermented malt beverage retailer's license.

22. PERSON shall mean any individual, firm, partnership, association or corporation.

23. PREMISES means the area described in a license.

24. REGULATION shall mean any requirement controlling business conduct which has been prescribed by city ordinance.

25. RESIDENCE shall mean a place where one actually lives or has his home as distinguished from a place of temporary sojourn or transient visit; or the principal place of business and location of corporate headquarters.

26. RESTAURANT shall mean and include any building, room or place where meals or lunches are prepared or served to the general public; except that the term "restaurant" shall not apply to churches, religious, fraternal, youth or patriotic organizations, service clubs or civic organizations which occasionally prepare or serve or sell meals or lunches to the general public nor shall it include any private individuals selling foods from movable or temporary stands at public farm sales.

27. RETAILER shall mean any person who sells, or offers for sale, any intoxicating liquor or fermented malt beverages for personal consumption.

28. SELL, SOLD, SALE OR SELLING shall mean any transfer of alcohol beverages with consideration or any transfer without consideration if knowingly made for the purposes of evading the law relating to the sale of alcohol beverages or any shift, device, scheme or transaction for obtaining alcohol beverages, including the solicitation of orders for, or the sale for future delivery of, alcohol beverages.

29. SODA WATER BEVERAGE shall mean and include all such beverages commonly known as soft drinks, as soda water, carbonated or uncarbonated or sweetened and flavored, and mineral and spring waters, carbonated or uncarbonated; and shall not include strong, spirituous, vinous, malt, ardent or intoxicating liquor.

30. UNDERAGE PERSON means a person who has not attained the legal drinking age.

31. WHOLESALER shall mean any person who sells, or offers for sale, any intoxicating liquor or fermented malt beverage to any retailer or other licensee for the purpose of resale.

32. WINE shall mean products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits or other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry, mead and sake, if such products contain $\frac{1}{2}$ of 1% or more of alcohol by volume.

90-2. State Law Application. In addition to the requirements imposed by ch. 125, Wis. Stats., incorporated by reference herein, the following regulations shall apply to all licenses granted or issued under this chapter.

90-3. License Required. 1. BASIC REQUIREMENT. It shall be unlawful for any person to sell or offer for sale, barter or give away in the city any intoxicating liquors or fermented malt beverages without having obtained a license as provided for in this chapter, or to be in violation of the terms of such license.

2. SEPARATE LICENSE REQUIRED. A separate license shall be required for each stand, place, room or enclosure where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale, except that only one license shall be required when a suite

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of rooms or enclosures are in direct connection or communication or contiguous to each other and operated by the licensee as one premises. No license shall be issued to any person for the purpose of possessing, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling, house, flat or residential apartment.

3. DRIVE-IN AND DRIVE-THROUGH WINDOW SALES PROHIBITED. No fermented malt beverages or intoxicating liquor shall be sold to any person who has not entered that portion of the premises licensed under s. 90-4-1, 2, 3, 5 and 6 in which fermented malt beverages or intoxicating liquor is kept for sale.

90-4. Classification of Licenses. Licenses to sell or offer for sale intoxicating liquor or fermented malt beverages shall be divided into the following classes.

1. CLASS "A" RETAILER'S INTOXICATING LIQUOR LICENSE. A Class "A" retail intoxicating liquor licensee shall sell or offer for sale intoxicating liquor in original packages or containers only which is to be consumed off the licensed premises.

2. CLASS "B" RETAILER'S INTOXICATING LIQUOR LICENSE. a. On-premises Sale. A Class "B" retailer's intoxicating liquor licensee shall sell or offer for sale intoxicating liquors to be consumed by the glass only on the licensed premises.

b. Off-premises Sale. b-1. The licensee shall also be entitled to sell intoxicating liquor in original packages or containers, in quantities of not more than 4 liters at any one time, to be consumed off the licensed premises, except that wine may be sold in the original package or otherwise in any quantity to be consumed off the licensed premises.

b-2. Any person who shall purchase any bottle or container of intoxicating liquor from any Class "B" tavern premises shall be prohibited from consuming its contents, either in part or in whole, on such premises. The provisions of this section shall not apply to hotels, restaurants, clubs and fraternal organizations which are the holders of a Class "B" license.

b-3. See s. 90-15-3-b of the code for the closing hour requirement restricting off-premise sales.

c. License Restrictions. In order to preserve the distinction between businesses

conducted under Class "A" retail intoxicating liquor license, and those conducted under the Class "B" tavern license, the following regulations shall govern the conduct of businesses operated in the city of Milwaukee under the Class "B" tavern license:

c-1. The licensee shall not cause the delivery of intoxicating liquors or fermented malt beverages from the licensed premises by truck or any other means.

c-2. No patron shall be suffered or permitted by any person licensed under this chapter to remove intoxicants or fermented malt beverages in open containers, whether in bottles, cans, or glasses, from the Class "B" licensed tavern, except in the case where the licensed tavern premises is contiguous to another licensed tavern premises, both licensed tavern premises are contiguous to a recognized festival being held and at least one of the licensed tavern premises has been granted a temporary extension of licensed premises for special events.

c-3. See sub. 4 for the circumstances when a Class "B" manager's license is required for a Class "B" tavern.

d. Prerequisite. Pursuant to s. 125.51 (3)(f), Wis. Stats., no Class B retailer's intoxicating liquor license shall be granted to any person who does not hold a Class "B" retailer's license to sell fermented malt beverages.

3. CLASS "B" RETAILER'S SERVICE BAR LICENSE. A Class "B" retailer's service bar licensee shall have the same rights and privileges granted to any other Class "B" licensee except that all intoxicating liquors or fermented malt beverages served for consumption on the premises so licensed shall be served only to patrons seated at tables. No stools, chairs or other articles of furniture shall be placed at the service bar for patrons to sit upon.

4. CLASS "B" MANAGER'S LICENSE. a. When Required. A manager shall be required for each establishment holding a Class "B" or Class "C" retailer's license if the individual proprietor, or partnership, or agent for the corporation or limited liability corporation is not the manager of the business. The manager shall be appointed in writing by the licensee and shall obtain a Class "B" manager's license from the city clerk.

b. **Manager's Responsibilities.** Pursuant to s. 125.32(1), Wis. Stats., the Class "B" manager shall have responsibility or authority for:

b-1. Personnel management of all employees, without regard to whether the person is authorized to sign employment contracts.

b-2. The terms of contracts for the purchase or sale of goods or services without regard to whether the person is authorized to sign contracts for goods or services; or

b-3. The daily operation of the licensed premises.

c. **Licensee's Responsibility.** The appointment of a manager shall not relieve the licensee of his responsibility for the licensed premises under this chapter; the licensee shall be subject to suspension or revocation proceedings as provided for in s. 90-12.

e. **Application; Issuance.** The application and issuance of such a license shall be made in accordance with s. 90-5. A manager's license shall be issued for a period not to exceed one year and shall expire on June 30. The license shall not be transferable.

5. CLASS "A" FERMENTED MALT BEVERAGE RETAILER LICENSE (PACKAGE STORE). A Class "A" fermented malt beverage retailer licensee shall sell at retail fermented malt beverages only for consumption away from the licensed premises and in the original packages, containers, or bottles in quantities of no more than 4 1/2 gallons. The limitation of quantities of no more than 4 1/2 gallons does not apply to a Class "A" fermented malt beverage retail licensee if the licensee also holds a Class "A" liquor license for the same premises. The licensee shall not be authorized to sell nonintoxicating liquors containing less than 1/2 of 1% of alcohol by volume. No holder of said license shall sell fermented malt beverages between 9:00 p.m. and 8:00 a.m.

6. CLASS "B" FERMENTED MALT BEVERAGE RETAILER LICENSE. a. **Authority.** A Class "B" fermented malt beverage retailer license shall authorize the licensee, other than brewers and bottlers, to sell fermented malt beverages to be consumed by the glass only on the premises, and in the original unopened package or containers to be consumed off the licensed premises; however, no person may sell

between 9:00 p.m. and 8:00 a.m. on any Class "B" licensed premises fermented malt beverages in an original unopened package, container, or bottle for consumption away from the premises.

b. **Brewers and Bottlers.** Brewers and bottlers holding a Class "C" fermented malt beverage license shall be entitled to maintain and operate in or upon the brewery premises a place for the service or sale at retail of fermented malt beverages. Such Class "B" fermented malt beverage license shall be issued to the individual brewer or bottler, or if the brewer or bottler is a corporation, then the license shall be issued to the agent appointed by the corporation, or if the brewer or bottler is a partnership, then the license shall be issued to the partners.

6.5. PROVISIONAL LICENSES. The city clerk shall issue, upon application, a provisional alcohol beverage retail establishment license as defined in subs. 1 to 3, 5, 6 and 9 if the common council grants a regular license to an applicant who meets all licensing requirements set forth in this chapter except the responsible beverage server training course required under s. 90-6-4. The provisional license issued under this subsection shall expire 60 days after its issuance or when the alcohol beverage retail establishment license is issued to the holder, whichever is sooner, and may not be renewed.

7. CLASS "B" SPECIAL LICENSE. (A SHORT-TERM LICENSE FOR CLUBS.)

a. **Authority.** A Class "B" special license shall authorize the licensee to sell at retail fermented malt beverages, wine and soda water beverages at a particular picnic or similar gathering, or at a meeting of a veterans' post or during a fair conducted by fair associations or agricultural societies.

b. **Eligibility Requirement.** The Class "B" special license shall only be issued to bona fide clubs, organized labor unions, county, or local fair associations, or agricultural societies, churches, lodges or societies that have been in existence for not less than 6 months prior to the date of application, or to posts established by veterans' organizations.

c. **Applicant's Responsibility.** Application for such a license shall be made by an officer or officers who shall appoint an

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agent who shall be personally responsible for compliance with all of the terms and provisions of this section.

d. Application. Application for a Class "B" special license shall be filed with the city clerk not less than 45 days before the date for which license is sought. Applicants may at the time of application specify on the application alternative dates for which the license is sought.

e. Approval by Council Members.

e-1. The city clerk shall issue the license unless a written objection regarding the licensee or the location has been filed with the city clerk. The objection may be filed by any interested person. If a written objection is filed, the application shall be forwarded to the licensing committee for its recommendation to the common council.

e-2. The written objection must address one or more of the following factors:

e-2-a. The appropriateness of the location and site for which the license is sought and whether the event for which the license is sought will create undesirable neighborhood problems.

e-2-b. The hours during which the event would be operated on the site and the likely effect of the event on the surrounding area.

e-2-c. Whether previous licenses granted to the same applicant or to other applicants for the same site have resulted in neighborhood problems including, but not limited to, complaints of loud music, noise, litter, disorderly assemblages, loitering or public urination.

e-2-d. Whether the applicant has been charged or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the activity for which the license is sought.

e-2-e. Any other factors which reasonably relate to the public health, safety and welfare.

f. Issuance. If no written objection has been filed and upon payment of the license fee specified in s. 81-28, the city clerk shall issue the Class "B" special license.

g. Hearing Procedure. g-1. In the event there is a written objection filed regarding an application for a Class "B" special license the application shall be forwarded to the

licensing committee of the common council. A hearing of an appeal shall be conducted as set forth in s. 90-5-8-b. The committee may make a decision immediately following the hearing or on a later date. In making its decision, committee members may consider the factors set forth in par. e-2. Written notice of the committee's decision will be provided if the decision is made at a later date or if the applicant was not present. In these instances, the decision of the licensing committee shall be final and the applicant shall have no right of appeal to the common council.

g-2. An applicant may appeal the decision of the licensing committee to the common council. In the case of an appeal, the committee shall forward its decision in writing to the common council for vote at the next meeting at which such matter will be considered. In making its decision, common council members may consider the factors set forth in par. e-2.

g-3. The city clerk may issue a Class "B" special license to an applicant who files his or her application fewer than 45 days before the event for which the license is sought provided the applicant waives his or her right to a hearing.

Note: The provisions of pars. e to g apply to all Class "B" special license applications for events taking place on and after January 1, 2006.

h. Chief of Police Notified. The city clerk shall within 24 hours after the issuance of any such license inform the chief of police of the date, place and event for which such a license has been issued. The Milwaukee police department shall check such event and report any violations of law to the common council.

i. City Clerk's Annual Report. The city clerk shall submit to the common council every year a report of all Class "B" special licenses issued by the city clerk.

j. Number of Licenses. No more than 2 Class "B" special licenses shall be issued under this subsection to any club, organized labor union, county or local fair association, agricultural association, church, lodge, society or veterans' post in any 12-month period.

7.8. TEMPORARY EXTENSION OF LICENSED PREMISES FOR SPECIAL EVENTS.

a. Authority. The granting of a temporary extension of licensed premises for

special events shall authorize the licensee to sell or serve intoxicating liquors or fermented malt beverages, as permitted by the specific license held, during the period of time and in the area described in the application for such temporary extension, as expressly approved by the common council. Such authority, however, shall be contingent upon the licensee also obtaining any and all other special privileges or permits required for the conduct of the special event for which the temporary extension of the licensed premises is sought.

b. **Eligibility.** Any person holding a valid Class "B" tavern, Class "B" fermented malt beverage or Class "C" wine license may apply for temporary extension of such licensed premises for a special event. The area which the licensee wishes to include in any temporary extension of the licensed premises must be owned by or under the control of the licensee. If the applicant seeks a temporary extension of the licensed premises, such that the extended licensed premises would extend into or encroach upon public property or public thoroughfares, then the applicant shall also be required to obtain the applicable special privilege before the document authorizing the temporary extension of the licensed premises is issued by the city clerk. The applicant shall also comply with all other applicable statutes, ordinances and resolutions.

c. **Applicant's Responsibility.** Application for the temporary extension of licensed premises for special events shall be made by an individual, or authorized agent in the case of a corporation, who shall be personally responsible for compliance with all of the terms and provisions of this chapter.

d. **Application.** Application for the temporary extension of licensed premises shall be made in writing to the city clerk on forms provided by the city clerk. The application shall be signed by the applicant, if an individual, or by a duly authorized agent or officer of a corporation, and shall be sworn to by the applicant. The application shall contain the name of the licensee, the address of the existing licensed premises (including the aldermanic district in which it is situated), the particular event or function for which the temporary extension of the licensed premises is sought, the date and period of time sought for the temporary extension of the licensed premises, a specific description of the area for

which the temporary extension is sought, and such other reasonable and pertinent information as the common council or proper licensing committee of the common council may require. The application shall be filed at least 3 days prior to the date of granting by the common council. The city clerk shall forward all applications to the utilities and licenses committee of the common council.

e. **Committee Action.** The utilities and licenses committee shall hold a hearing on whether or not to grant each application for a temporary extension of licensed premises for special events. If any interested person objects to the granting of a particular application, then the licensee shall receive at least 3 days notice of the hearing date and the nature of the objection to the application. The applicant shall have an opportunity to appear at the hearing and be represented by counsel and to cross-examine witnesses opposed to the granting of the application for temporary extension of the licensed premises and to present evidence in favor of the granting of the application. At the conclusion of the hearing, the committee shall make a recommendation to the common council on whether or not to grant the application. In making its recommendation, the committee may consider, among other factors, the appropriateness of the location for which a temporary extension of licensed premises is sought, whether such location will create an adverse impact on other property in the neighborhood, and any other factors which reasonably relate to the public health, safety and welfare. The common council shall act on the committee's recommendation without further hearing.

f. **Issuance.** In the event the common council grants the application for a temporary extension of licensed premises for special events, the city clerk shall issue an appropriate document to the applicant confirming that fact and specifying the date, period of time and specific location for which the extended licensed premises shall be in effect. Such document shall also contain any restrictions or conditions which the common council may place on such approvals. The city clerk shall within 24 hours after the issuance of the approving document inform the chief of police of the date, place and event for which the temporary extension of licensed premises was issued.

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g. On-premises Sale. A licensee granted a temporary extension of licensed premises for special events may not sell any alcohol or non-alcohol beverages for consumption in bottles, cans and glass containers in the location of the temporary extension of the licensed premises. Beverages may only be sold in single service cups for on-premises consumption in the location of the temporary extension of the licensed premises.

8. CLASS "C" FERMENTED MALT BEVERAGE WHOLESALE LICENSE. A Class "C" fermented malt beverage wholesaler licensee shall sell to retail dealers fermented malt beverages in the original packages or containers which are not to be consumed in or about the licensed premises of the wholesaler.

9. CLASS "C" WINE RETAILER LICENSE. a. Authority. A Class "C" wine retailer license shall authorize the licensee to sell or offer for sale wine by the glass or in an opened original container for consumption on the premises where sold.

b. Eligibility. A Class "C" license may be issued to a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which does not have a barroom or for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which has a barroom in which wine is the only intoxicating liquor sold. In this paragraph, "barroom" shall mean a room that is primarily used for the sale or consumption of alcohol beverages.

c. Prohibition. A Class "C" license may not be issued to a foreign corporation, a foreign limited liability company or a person acting as agent for or in the employ of another.

10. CLASS "D" OPERATOR'S LICENSE. a. Authority. A Class "D" operator's license shall authorize the operator to draw or remove from any barrel, keg, cask, bottle, or any other container, fermented malt beverages and to serve them in any place operated under a Class "B" fermented malt beverage retailer's license; to sell or serve intoxicating liquors in any place operated under a Class "B" intoxicating liquor retailer's license; or to sell or serve wine in any place operated under a Class "C" wine retailer's license; or to sell intoxicating liquor or fermented malt beverages in any place operated under a Class "A" retailer's intoxicating liquor license or a Class "A" fermented malt beverage retailer's license.

b. Applicable to Family Members. Any member of the immediate family and household of the licensee 21 years or older shall be considered as holding a Class "D" Operator's License so long as he or she is working only on the family premises. An underage member of the immediate family and household of the licensee may perform the duties of a Class "D" operator if he or she is at least 18 years of age, is working only on the family premises, and is under the immediate supervision of any of the following persons who must be on the premises at the time of service: the licensee, an agent, a Class "B" manager, a person holding an operator's license, or a member of the immediate family and household who is at least 21 years of age.

c. Prohibition. No person other than the licensee, certain members of the licensee's family and household, a Class "B" manager, or a licensed operator, or a person under the immediate supervision of the licensee, certain members of the licensee's family and household, an agent or a person holding an operator's license who is on the premises at the time of service, shall function as a Class "D" operator. See s. 90-26 for serving restrictions.

11. CLASS "D" PROVISIONAL OPERATOR'S LICENSE. a. Authority; Duration. A provisional Class "D" operator's license shall authorize the operator to perform those activities permitted a person holding a Class "D" operator's license under sub. 10. Except as provided in par. d, a provisional license shall expire 60 days after its issuance or when a Class "D" operator's license is issued to the holder, whichever is sooner. A provisional license may not be renewed.

b. Application. Application for a license shall be made to the city clerk pursuant to s. 90-5-1. An applicant for a provisional Class "D" operator's license may only apply for the provisional license upon application for the Class "D" operator's license. All matters submitted in writing to the city clerk shall be true and subject to s. 90-5-2. Applicants shall be fingerprinted pursuant to s. 90-5-6. In addition, all applications shall be referred to the chief of police for investigation who shall report findings to the city clerk.

c. Issuance of License. Except as provided in par. d, the city clerk may only issue a provisional Class "D" operator's license to an applicant meeting the following criteria:

c-1. The applicant upon applying for a provisional Class "D" operator's license has also applied for a Class "D" operator's license.

c-2. The applicant complies with s. 90-6-1-b and c.

c-3. The police chief, pursuant to the chief's investigation under par. b, does not find that the applicant has been charged with or convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the licensed activity.

c-4. The applicant has not been denied a Class "B" manager's or Class "D" operator's license, or has not had his or her Class "B" or Class "D" license not renewed, any within the preceding 12 months.

c-5. The applicant has not had his or her Class "B" manager's or Class "D" operator's license revoked within the preceding 12 months.

c-6. The applicant furnishes evidence that the applicant complies with the requirements of s. 90-6-4 or is currently enrolled in a responsible beverage server training course pursuant to s. 90-6-4.

d. License issued by Another Municipality. The city clerk shall issue a provisional Class "D" operator's license to an applicant who, at the time of application for a Class "D" operator's license and payment of the fee as provided in s. 81-31.3, files with the city clerk a certified copy of a valid Class "D" operator's license issued by another municipality.

d-1. Expiration. A provisional license issued under this paragraph expires as provided under par. a or upon expiration of the operator's license issued by another municipality and filed under this paragraph, whichever is sooner.

d-2. Revocation. The city clerk may revoke the provisional license issued under this paragraph if the city clerk determines that the operator's license issued by another municipality and filed under this paragraph is not valid or upon denial of the holder's application for a Class "D" operator's license.

12. CLASS "D" SPECIAL TEMPORARY OPERATOR'S LICENSE. a. Authority. A Class "D" special temporary operator's license shall authorize the operator, who shall be 18 years of age or older, to draw or remove from any

barrel, keg, cask, bottle or any other container fermented malt beverages and to serve said beverages; and to sell or serve intoxicating liquors, only for those religious, scientific, educational, benevolent or other corporations, or associations of individuals not organized or conducted for pecuniary profit.

b. This license may be issued only to operators employed by or donating their services to, nonprofit corporations.

c. No person may hold more than one license of this kind per year.

d. Application; Issuance. Application for the Class "D" special temporary operator's license shall be made to the city clerk in writing on forms furnished by the city clerk. The application shall be signed by and sworn to by the applicant. Such application shall state the name and permanent address of the applicant, the date of birth, the organization and the premises at which the applicant will be working, and the date or dates of the specific event, not to exceed 14 consecutive days, sponsored by the organization. The city clerk shall issue the Class "D" special temporary operator's license upon payment of the license fee required in ch. 81 without referring any of the applications to the common council for action. The license shall state the name of the individual, and the period and the premises for which it is issued.

90-4.5. Limitations On Other Business; Class "B" Premises. No Class "B" fermented malt beverage retailer license may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" fermented malt beverage retailer license is issued is connected to premises where other business is conducted by a secondary doorway which serves as a safety exit and is not the primary entrance to the Class "B" fermented malt beverage retailer premises. No other business may be conducted on premises operating under a Class "B" fermented malt beverage retailer license. These restrictions do not apply to any of the following:

1. A hotel.
2. A restaurant, whether or not it is a part or located in any mercantile establishment.

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3. A combination grocery store and tavern.
4. A combination novelty store and tavern.
5. A bowling alley or recreation premises.
6. A club, society or lodge that has been in existence for 6 months or more prior to the date of filing application for Class "B" fermented malt beverage retailer license.

90-4.7 Restriction on Granting of Class "A" Fermented Malt Beverage and Class "A" Retailer's Intoxicating Licenses. No Class "A" retailer's intoxicating liquor license or Class "A" fermented malt beverage retailer license may be granted to an applicant applying for a premises currently licensed as a filling station.

90-5. Licensing. 1. APPLICATION: FORM AND CONTENTS. a. To Be Filed. Application for all licenses issued pursuant to this chapter, except for the short-term Class "B" special fermented malt beverage license, shall be made to the city clerk in writing on forms furnished by the city clerk. The application shall be signed by the applicant, if an individual, or by a duly authorized agent or officer of a corporation or club, and sworn to by the applicant.

b. Content. Such application shall state:

- b-1. The kind of a license applied for.
- b-2. The name and permanent address of the applicant.
- b-3. The name and address of the premises for which the license is to be granted, including the aldermanic district in which it is situated.

b-5. If the applicant is a corporation, the name of the corporation shall be set forth exactly as it is set forth in its articles of incorporation, together with the names and addresses of each of its officers, directors and designated manager(s), if any; the application shall be verified by any officer of the corporation.

b-6. If the applicant is a partnership, the application shall set forth the name and resident address of each of the partners, including limited partners, and the application shall be verified by each partner. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate

applicant shall apply to the corporate partners.

b-7. If the applicant is a club, association or other organization which is neither a corporation or partnership, the application shall set forth the exact name of the entity together with the names and residence addresses of all officers and be verified by an officer of the club, association, or organization.

b-8. All convictions, including ordinance violations exclusive of traffic violations, with a brief statement of the nature of the convictions and the jurisdiction in which the conviction occurred.

b-9. The date of birth.

b-10. Such other reasonable and pertinent information the common council or the proper licensing committee of the common council may from time to time require.

c. Additional Requirements. In any application for an alcohol beverage retail establishment license, excepting the short-term Class "B" special fermented malt beverage license, the applicant shall file a detailed floor plan on a 8½ inch x 11 inch sized sheet of paper for each floor of the premises and a completed plan of operation on forms provided therefor by the city clerk.

c-1. Floor Plan. In this paragraph, "floor plan" means a blueprint or detailed sketch of the alcohol beverage retail establishment and shall include:

c-1-a. Area in square feet and dimensions of the premises.

c-1-b. Locations of all entrances and exits to the premises.

c-1-c. Locations of all seating areas, bars and, if applicable, food preparation areas for applications for Class "B" and Class "C" alcohol beverage retail establishment licenses.

c-1-d. Locations and dimensions of any alcohol beverage storage and display areas.

c-1-e. Locations and dimensions of any outdoor areas available at the premises for the sale or service of alcohol beverages.

c-1-f. Locations and dimensions of any off-street parking areas available at the premises.

c-1-g. North point and date.

c-1-h. Any other reasonable and pertinent information the common council may from time to time require.

c-2. Plan of Operation. The plan of operation shall require:

c-2-a. The current or planned hours of operation for the premises.

c-2-b. The number of patrons expected on a daily basis at the premises.

c-2-c. The legal occupancy capacity of the premises, if known by the applicant.

c-2-d. The number of off-street parking spaces available at the premises.

c-2-e. What plans, if any, the applicant has to insure the orderly appearance and operation of the premises with respect to litter and noise.

c-2-f. What other types of business enterprises, if any, are planned or currently conducted at the premises.

c-2-g. What other types of licenses and permits, if any, are planned or currently issued for the premises.

c-2-h. Whether or not, pursuant to s. 90-14, the premises is less than 300 feet from any church, school or hospital.

c-2-i. Any other reasonable and pertinent information the common council may from time to time require.

c-3. Exemptions. For any renewal application for an alcohol beverage retail establishment license for which there is no change in any information that is reported in the floor plan and plan of operation as submitted with the original or previous renewal application pursuant to this paragraph, the licensee may file a sworn, written statement to that effect with the city clerk and, having done so, shall not be required to file a new floor plan and plan of operation with the renewal application.

d. Number of Licenses. In any application for an alcohol beverage retail establishment license, the applicant shall state whether the applicant currently holds any alcohol beverage retail establishment license in any other location in the state.

2. TRUTH OF STATEMENTS AND AFFIDAVITS; PENALTY. a. All matters submitted in writing to the city by any applicant or licensee pertaining to an intoxicating liquor or fermented malt beverage license shall be true. Any person who submits in writing any untrue statement or affidavit to the city in connection with any such license or application shall be fined not to exceed \$500 or in default of payment thereof shall be imprisoned in the county jail or house of

correction of Milwaukee county for not more than 90 days; and that license, if granted, shall be subject to revocation and no intoxicating liquor or fermented malt beverage license of any kind or nature whatsoever shall thereafter be granted to such a person for a period of one year from the date of such revocation.

b. There shall be contained on each individual application for an intoxicating liquor or fermented malt beverage license of any kind information to the effect that a penalty is provided for any false statement or false affidavit supplied by any such applicant or licensee.

3. TIME OF FILING; LEGAL NOTICE AND FEE. a. Filing Time. Application shall be filed for all liquor and beer licenses at least 30 days prior to the date of granting by the common council. When an application has been on file at least 14 days prior to the date of granting, and the police investigation has been completed with no police objection, and there are no other objections to the granting of the license, the common council may grant such licenses prior to the passage of the full 30 days.

b. Legal Notice and Fee. A notice of the application for an alcohol beverage retail establishment license containing the name and address of the applicant and the kind of license applied for and the location of the premises to be licensed shall, prior to the granting of such license be published in a daily paper which shall have been regularly and continuously published daily in the city for a period of at least 3 times successively. At the time of filing an application the applicant shall pay to the city clerk such sum as computed by the rate per folio for legal notices or publications as created, established, and applied in the counties of this state by provisions of Wisconsin statutes, would be required to pay for such publication.

4. DEPOSIT OF FEE; REFUND. a. Prior to issuance of a license, each applicant shall deposit with the city treasurer the full amount of the fee required in ch. 81 for the specific license or licenses applied for.

b. It shall be the duty of the city treasurer to accept the deposit, issue a receipt therefor, and cause a record to be kept thereof. When a license is granted by the common council, it shall be the duty of the city treasurer to apply such deposit as full payment of the

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license fee, upon receipt of certification thereof by the city clerk.

c. It shall be the duty of the city clerk to enter on all applications filed with him the amount deposited with the city treasurer, the date of the deposit and the number of the treasurer's receipt.

d-1. Upon the withdrawal or the common council's denial of a Class "A" or Class "B" liquor license application or Class "A" fermented malt beverage license application, the amount of \$50 of the application fee shall be retained by the city treasurer to defray the cost of investigation of facts and administration thereof. The remainder of the application fee for Class "A" or Class "B" liquor or Class "A" fermented malt beverage licenses and deposits on all applications denied by the common council shall be refunded by the city treasurer upon surrender of the deposit receipt certified by the city clerk, provided that the certified deposit receipt is surrendered no later than one year after the date of the license denial.

d-2. Upon withdrawal or the common council's denial of a Class "D" Operator's license, the amount of \$21 shall be retained by the city treasurer to defray the cost of investigation of facts and administration thereof.

e. If payment for a license fee is made by check or other draft and payment on the draft is stopped or the draft is drawn upon a non-existent or an account containing insufficient funds, the applicant shall, within 15 days after the receipt of notice from the city clerk of the insufficiency, pay by cashier's check or other certified draft, money order or cash, the fees, late fees and processing charges as specified by the code. Non-payment of all applicable fees, late fees and processing charges within 15 days after the applicant received notice of the insufficiency shall render the license null and void as prescribed in s. 125.04(1) and (8), Wis. Stats. If the license is required for the operation of an establishment, the establishment shall be closed until all fees, late fees and processing charges are paid in full.

5. MONEY TO BE PART OF GENERAL CITY FUND. All moneys received by the treasurer for licenses issued under this chapter shall be appropriated to and become part of the general city fund.

6. FINGERPRINTING. a. Required for Certain Licenses. All applicants for a Class "A" or a Class "B" retailer's intoxicating liquor license, a Class "B" manager's license, a Class "A" fermented malt beverage³ retailer's license, a Class "D" operator's license or a Class "D" provisional operator's license shall be fingerprinted. If the applicant is a corporation, the agent, and all officers and directors as well as stockholders owning 20% or more of the stock of the corporation shall be fingerprinted. If the applicant is a partnership, each partner shall be fingerprinted.

b. Exemptions. The requirement that an applicant be fingerprinted shall not apply to a person already licensed by the city when that person is renewing the license. The fingerprinting requirement shall also not apply to the officers and directors of nonprofit corporations which apply for a license, except that the fingerprinting requirement shall apply to the agent of such corporations.

c. Duplicate Sets Not Required. If a set of fingerprints is on file with the police department, an additional set shall not be required unless expressly requested by the police department for purposes of verification.

7. INVESTIGATION. All applications shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health, all of whom shall cause an investigation to be made and report their findings to the proper licensing committee of the common council.

8. COMMITTEE ACTION. a. Notice.

a-1. Applications for Class "D" operator's licenses shall be referred to chief of police for review. If the police chief files no written report summarizing the arrest and convictions of the applicant which could form a basis for denial, the license shall be forwarded to the common council for approval. If the chief or police files a written report summarizing the arrest and convictions of the applicant which could form a basis for denial, the application, except as provided in subd. 3, shall be forwarded to the proper licensing committee of the common council for its recommendation as to whether or not each license should be issued.

a-2. Applications for all new Class "A" or Class "B" retail licenses, Class "B" manager's licenses and Class "C"

wholesale licenses shall, except as provided in subd. 3, be referred to the appropriate licensing committee of the common council for its recommendation as to whether or not each license should be issued. In addition, applicants for all new alcohol beverage retail establishment licenses are required to appear before the licensing committee at the date, time and place specified in written notice provided to the applicant by the city clerk's office. If the applicant is a corporation or limited liability corporation, a duly authorized agent or legal representative of the corporation is required to appear before the licensing committee. All applicants may be represented by a legal representative before the licensing committee.

a-3. If the chief of police files a written report summarizing the arrest and convictions of an applicant for a new operator's license, alcohol beverage wholesale establishment license or manager's license which could form the basis for denial of the application, the city clerk shall, in lieu of forwarding the application to the licensing committee for a hearing under subds. 1 and 2, refer the application to the common council for approval and issue a warning letter to the applicant whenever all of the following are true:

a-3-a. The applicant has no more than one pending charge for a misdemeanor offense and the pending charge is related to a non-violent offense.

a-3-b. The applicant has not within 12 months of the date of application been convicted of any misdemeanor offense or municipal ordinance violation.

a-3-c. The applicant has not within 3 years of the date of application been convicted of more than one misdemeanor offense or municipal ordinance violation related to serving underage or intoxicated persons.

a-3-d. The applicant has not within 3 years of the date of application been convicted of more than 3 misdemeanor offenses and municipal ordinance violations.

a-3-e. The applicant has not within 5 years of the date of application been convicted of more than one felony offense and has not within 5 years of the date of application served probation or been imprisoned for any felony conviction.

a-3-f. The applicant has not within 10 years of the date of application been convicted of a second or subsequent offense related to operating a motor vehicle while intoxicated.

a-4. In determining the eligibility of the applicant to be issued a warning letter under subd. 3, the city clerk shall not consider either of the following:

a-4-a. Any pending charges or convictions of any misdemeanor or felony offenses related to failure to pay child support.

a-4-b. Any one conviction of a misdemeanor offense or municipal ordinance violation related to retail theft for which the applicant was not imprisoned.

a-5. Notwithstanding the provisions of subds. 3 and 4, an applicant who meets the criteria of those subdivisions shall have his or her application forwarded to the licensing committee if a written objection to the application is filed by any interested party.

a-6. If there is a possibility of denial of any license regulated by this subsection, no hearing shall be heard unless the city clerk's office has provided written notice to the applicant so that the applicant has at least 3 days' notice of the hearing.

a-7. The notice shall contain:

a-7-a. The date, time and place of the hearing.

a-7-b. A statement to the effect that the possibility of denial of the license application exists and the reasons for possible denial.

a-7-c. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for denial and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

a-7-d. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

a-8. If it appears for the first time at the hearing that there will be objections, then the matter will be laid over until the next meeting, prior to which proper notice will be given.

b. Hearing. b-1. If there is a possibility of denial, at the hearing the committee chairman shall open the meeting by stating that a notice was sent and read the notice into the record unless the applicant admits notice. The chairman shall advise the applicant that the applicant has an option to proceed with a due process hearing, represented by counsel, with all testimony both direct and cross-examination under oath, or that the applicant may simply make a statement to the committee.

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b-2. A due process hearing shall be conducted in the following manner:

b-2-a. All witnesses will be sworn in.

b-2-b. The chairman shall ask those opposed to the granting of the license to proceed first.

b-2-c. The applicant shall be permitted an opportunity to cross-examine.

b-2-d. After the conclusion of the opponent's testimony, the applicant shall be permitted to present the applicant's own witnesses, subject to cross-examination.

b-2-e. Committee members may ask questions of witnesses.

b-2-f. Both proponents and opponents shall be permitted a brief summary statement.

c. Recommendations. c-1. The recommendations of the committee regarding the applicant must be based on evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

c-1-a. Whether or not the applicant meets the statutory and municipal requirements.

c-1-b. The appropriateness of the location and premises to be licensed and whether the location will create undesirable neighborhood problems. Probative evidence relating to these matters may be taken from the floor plan and plan of operation submitted pursuant to sub. 1-c.

c-1-c. Whether there is an over-concentration of licensed establishments in the neighborhood.

c-1-d. Whether or not the applicant has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the licensed activity.

c-1-e. Any other factors which reasonably relate to the public health, safety and welfare.

c-2. The committee may make a recommendation immediately following the hearing or at a later date. This recommendation may include such revisions to the floor plan and plan of operation submitted pursuant to sub. 1-c as the committee may deem necessary and which are agreed to by the applicant. Written notice of the committee's decision will be provided if the decision is made at a later date or if the applicant was not present or represented. The committee shall forward its

recommendation in writing to the full common council for vote at the next meeting at which such matter will be considered.

9. DISQUALIFICATION.

a. Whenever an applicant for a new alcohol beverage premises license has had his or her application denied for a reason relating to the fitness of the location of the premises to be licensed, no other application for an alcohol beverage license for such location shall be recommended for approval by the utilities and licenses committee within 3 years of the date of the denial unless the applicant has demonstrated a change of circumstances since the prior denial. Before the committee considers any such application, the applicant shall file with the city clerk a written statement setting forth the change in circumstances relating to the fitness of the location of the proposed licensed premises since the prior denial. In considering whether changed circumstances exist, the committee shall consider, among other factors:

a-1. A change in the type of license sought by an applicant.

a-2. A change in the number of licensed alcohol beverage outlets in the neighborhood.

a-3. A change in zoning applicable to the subject property.

a-4. New developments of land uses in the vicinity of the subject property.

b. Whenever an application accompanied by a written statement of changed circumstances is filed, the committee shall hold a hearing to determine if changed circumstances exist. At the hearing, testimony shall be limited to that of the applicant and the applicant's attorney with respect to demonstration of a change in circumstances. If the committee determines that the applicant has failed to demonstrate that a sufficient change in circumstances exists to justify a new hearing on the merits, the committee shall recommend that the application be denied. If the committee determines that a sufficient change in circumstances has been demonstrated to justify a new hearing on the merits, the committee shall schedule a separate hearing on whether the application should be recommended for approval or denial.

c. Whenever an applicant for a new alcohol beverage premise license has had his or her application denied, no other application by the same applicant for an alcohol beverage

premise license at the same premise shall be recommended for approval by the licensing committee for a period of 12 months following the date of the original denial unless the applicant has demonstrated a change of circumstances since the prior denial. Before the committee considers any such application, the applicant shall file with the city clerk a written statement setting forth the change in circumstances relating to the applicant since the prior denial. Whenever an application accompanied by a written statement of changed circumstances is filed, the committee shall hold a hearing to determine if changed circumstances exist. At the hearing, testimony shall be limited to that of the applicant and the applicant's attorney with respect to demonstration of a change in circumstances. If the committee determines that the applicant has failed to demonstrate that a sufficient change in circumstances exists to justify a new hearing on the merits, the committee shall recommend that the application be denied. If the committee determines that a sufficient change in circumstances has been demonstrated to justify a new hearing on the merits, the committee shall schedule a separate hearing on whether the application should be recommended for approval or denial. In considering whether changed circumstances exist, the committee shall consider, among other factors:

- c-1. A change in the type of license sought by an applicant.
- c-2. A change in the number of licensed alcohol beverage outlets in the neighborhood.
- c-3. A change in zoning applicable to the subject property.
- c-4. New developments of land uses in the vicinity of the subject property.
- d. Denial of Class "B" Manager's License or Class "D" Operator's License. Whenever an applicant for a Class "B" manager's license or a Class "D" operator's license is denied a license due to police department objection, the person so denied shall not reapply for a license within 12 months of the date of denial.

10. ISSUANCE OF LICENSE BY CITY CLERK. It shall be the duty of the city clerk, whenever a license for the sale of intoxicating liquors, or fermented malt beverages shall have been granted by the common council, and the applicant shall have produced and filed with the

city clerk a receipt showing payment of the sum required for such license to the city treasurer, to prepare and deliver to such applicant a license in accordance with this chapter and of the laws of the state of Wisconsin. Such license shall specifically state the premises to be licensed. Such license shall not be transferable from one person to another, except as otherwise provided in s. 90-10, and it shall not authorize the sale of intoxicating liquors or fermented malt beverages in any other manner than that specified in the license. It shall not inure to the benefit of any person other than the licensee therein named and shall not authorize the sale of intoxicating liquors or fermented malt beverages in any other place than that specified in the license. It shall bear the signature of the city clerk and the corporate seal of the city.

11. LICENSE PERIOD; FEES. See ch. 81 for the required license fees and the date of expiration.

12. CHANGES TO BE REPORTED. A licensee shall notify the city clerk whenever there is a change in any information that is reported in the application form or renewal application form. The licensee shall make this notification in writing within 10 days after the change occurs.

13. CHANGE IN PLAN OF OPERATION. If, after the license has been granted or issued, the licensee wishes to substantially deviate from the floor plan or plan of operation as submitted with the original or renewal application, the licensee shall file a sworn, written request with the city clerk which states the nature of the change. No change shall take place until the request has been approved by the common council. The common council's approval shall be given only if it determines, in the manner set forth in sub. 8-c-1-b, that the change is compatible with the normal activity of the neighborhood in which the premises is located.

90-6. Qualifications for Licenses.

1. PROFESSIONAL CHARACTER. a. The common council, consistent with ss. 111.321, 111.322, and 111.335, Wis. Stats., may refuse to grant a license to any person who has been convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the particular licensed activity. If the applicant is a corporation, this

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requirement does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.

b. In addition, any applicant for a Class "D" operator's license or a Class "B" manager's license shall not have been convicted of 2 or more offenses during the last 3 years relating to serving minors or intoxicated persons.

c. Class "D" operator's licenses may be issued only to applicants who have attained the age of 18. All other licenses issued under this chapter may be issued only to applicants who have attained the age of 21.

2. RESIDENCY REQUIREMENTS.

a. By License Class. Class "A" retailer's intoxicating liquor license; Class "B" retailer's intoxicating liquor and service bar licenses; Class "A" fermented malt beverage retailer's license; Class "B" fermented malt beverage retailer's license; Class "C" fermented malt beverage special wholesaler's license; Class "C" wine retailer's license:

a-1. The applicant shall have been a resident of the state of Wisconsin continuously for at least 90 days prior to the date of the application.

a-2. This subsection shall not apply to officers and directors of corporations.

b. Class "B" Manager's License. The applicant shall have been a resident of the state of Wisconsin continuously for at least 90 days prior to the date of the application.

c. Licenses Not Requiring City Residency. There shall be no city residency requirements for the following licenses:

c-1. Class "B" special malt beverage retailer's license.

c-2. Class "C" fermented malt beverage wholesaler's license.

c-3. Class "D" operator's license.

c-4. Class "D" special temporary operator's license.

d. Limited Partners. All limited partners in a limited partnership, as defined in ch. 179, Wis. Stats., shall have been residents of the state of Wisconsin continuously for at least 90 days prior to the date of the application for any license issued pursuant to ch. 90.

3. PROOF OF SELLER'S PERMIT.

The applicant shall have submitted proof under s. 77.61 (11), Wis. Stats., that the applicant is the holder of a seller's permit as required by subch. 3, ch. 77, Wis. Stats., or has been informed by an employee of the Wisconsin

department of revenue that the department will issue a seller's permit to the applicant. This provision shall not apply to the following:

a. Applicants for a Class "D" operator's license.

b. Applicants for a Class "B" manager's license.

c. Applicants for a Class "B" special fermented malt beverage license.

4. TRAINING COURSE. a. No alcohol beverage retail establishment license, Class "B" manager's license or Class "D" operator's license may be issued unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a vocational, technical and adult education district and that conforms to curriculum guidelines specified by the board of vocational, technical and adult education or a comparable training course that is approved by the educational approval board or unless the applicant fulfills one of the following requirements:

a-1. The person is renewing an operator's license, a manager's license, an alcohol beverage retail establishment license.

a-2. Within the past 2 years, the person held an alcohol beverage retail establishment license, manager's license or operator's license.

a-3. Within the past 2 years, the person has completed such a training course.

a-4. The person was an agent of a corporation or limited liability corporation that held, within the past 2 years, an alcohol beverage retail establishment license, manager's or operator's license.

b. If the applicant is a corporation or limited liability corporation, the agent shall complete the required responsible beverage server training course.

90-7. Restrictions on Corporations.

1. RESPONSIBLE PERSON.

a. General. No corporation organized under the laws of the state of Wisconsin or of any state or foreign country may be issued a license to sell in any manner any intoxicating liquor or fermented malt beverage unless it has appointed as agent a natural person who has been a resident of the state of Wisconsin continuously for at least 90 days prior to the date of the application for any license issued pursuant to ch. 90. The agent must meet the provisions of s. 90-6-1-a. The agent shall have vested in him or her, by properly authorized and executed written delegation, full authority and

control of the premises described in the license of the corporation, and of the conduct of all business on the premises relative to intoxicating liquor or fermented malt beverages that the licensee could have and exercise if it were a natural person.

b. **Certain Retail Premises.** Under a Class "B" or Class "C" retailer's license, there shall be upon the licensed premises at all times, the licensee, or the agent of the corporation or limited liability corporation, or a Class "D" operator, or a person holding a Class "B" manager's license.

2. CORPORATE STOCK. Each corporate applicant shall file with its application for a license a statement by its officers showing names and addresses of all persons who individually hold 10% or more of the corporation's total or voting stock, or proxies for that amount of stock, together with the amount of stock or proxies held by each person. It shall be the duty of the corporation agent to file with the city clerk a statement of the transfer of any stock or proxies, where the effect of the transfer would constitute a change in the stockholders list then on file. Notice to the city clerk shall be given not later than 10 calendar days after any transfer. If this transfer results in any person holding 20% or more of the corporation's total or voting stock, or proxies for that amount of stock, and that person has not been fingerprinted pursuant to another provision of this chapter, that person shall be fingerprinted. All of the information provided pursuant to this subsection shall be forwarded to the chief of police who shall cause an investigation to be made and who shall report his or her findings to the city clerk. The provisions of this subsection do not apply to hotels, duly organized fraternal organizations, concessionaires in public auditoriums, municipal festival organizations and to the Wisconsin center district established pursuant to ch. 229, Wis. Stats.

3. CHANGE OF OFFICERS. Whenever a corporation or licensed limited partnership licensed to sell intoxicating liquor or fermented malt beverages changes any of its corporate officers, directors or members, it shall be the duty of the corporation agent to file with the city clerk a statement of the change on a form provided therefor. Notice to the city clerk shall be given not later than 10 calendar days after any change is made. Any new officers, directors or members shall be fingerprinted unless their fingerprints are already on file pursuant to another provision of this chapter. The information provided shall be forwarded to the chief of police who shall cause an investigation to be made and who shall report his or her findings to the city

clerk. This subsection shall not apply to hotels concessionaires in public auditoriums, municipal festival organizations, the Wisconsin center district established pursuant to ch. 229, Wis. Stats., or duly organized fraternal organizations nor when a change in the corporate setup is necessitated by the death of officers or directors.

90-8. Responsible Person Upon Licensed Premises. **1. REQUIRED.** There shall be upon the premises operated under an alcohol beverage retail establishment license at all times the licensee, or a Class "B" Manager, or a Class "D" Operator who shall be responsible for the control of the establishment which includes the acts of all employees serving intoxicating liquor or fermented malt beverages to customers. The appointment of a Class "B" manager or a Class "D" operator to oversee the premises shall not relieve the licensee of his responsibility under this chapter.

2. PENALTY. a. Any person violating this section shall be subject to the penalty specified in s. 90-40.

b. In addition to the penalty specified in par. a., a licensee may also be subject to suspension or revocation proceedings provided in s. 90-12.

90-8.5. Use of License by Another Prohibited. No person may allow another to use his or her alcohol beverage retail or wholesale establishment license to sell alcohol beverages.

90-9. Collusive Agreements Prohibited. Any person licensed to sell intoxicating liquor or fermented malt beverages in the city who shall permit any other person to conduct such intoxicating liquor or fermented malt beverages business under such licensee's license, or in the name of said licensee, who or who shall connive, collude or agree with any other person to enable such other person to conduct any such business under the said licensee's license or in the name of said licensee and any person who shall conduct any premises or place for the sale of intoxicating liquor or fermented malt beverages within the city under a license issued to another person, or in the name of such person, or who shall connive, collude or agree with any licensee to enable such person to conduct such business in the name, or under the license of such licensee, shall be subject to the penalty specified in s. 90-40. This section shall not apply to holders of Class "B" special fermented malt beverage licenses issued under s. 90-4-7.

90-10. Transfer of License or Change of Name.

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1. GENERAL REQUIREMENT. No license shall be transferable whether as to licensee or location except as herein provided.

2. CHANGE OF PREMISES. Every license issued under this chapter for the sale of intoxicating liquor or fermented malt beverages may be transferred from one premises to another within the city, upon payment of the fees required in ch. 81, but no licensee shall be entitled to more than one transfer in any one license year. The application and proceedings for such transfer shall be made in the same form and manner as the original application.

3. CHANGE OF NAME. The city clerk is authorized to change the names on intoxicating liquor or fermented malt beverage licenses in such instances as death in the family, marriages and divorces where the award is by court decree; and where such name change will not transfer the license outside the family.

4. DEATH. a. Death of Licensee. In case of death of the licensee, the license may in the discretion of the common council be transferred to the executor, administrator or next of kin of the deceased licensee. In such event, the executor, administrator or next of kin of the deceased licensee shall report the death of the original licensee to the city clerk, together with the name and address of the person by whom such licensed business is to be conducted. The transfer of a license under such circumstances may be made only if it is approved by the common council and the new licensee is in full compliance with the provisions of this chapter.

b. Death or Withdrawal of Partner. In the case of the death or withdrawal of one or more members of a partnership to which a license has been issued, the city clerk shall upon request permit the remaining partner or partners to operate the business for the remainder of the license year.

5. DISABILITY. If a licensee becomes disabled, the common council may in its discretion, upon application, transfer the license to the licensee's spouse if that spouse may hold a license under s. 90-6 and complies with

all requirements under this chapter applicable to original applicants, except that the spouse is exempt from payment of the license fee for the year in which the transfer takes place.

6. BANKRUPTCY. If any licensee becomes bankrupt or makes an assignment for the benefit of creditors, the receiver or creditor may continue or sell said business. The transfer of a license under such circumstances may be made only if it is approved by the common council and the new licensee is in full compliance with the provisions of this chapter.

7. TRANSFER OF STOCK. The transfer of stock in any corporate licensee shall be reported to the city clerk within 48 hours, as required in s. 90-7-2. The transfer of corporate stock shall not require the payment of any transfer of license fee.

8. NOTIFICATION. a. The city clerk shall be notified of any changes made in a licensed liquor or tavern business name within 10 days of the change.

b. The city clerk shall notify the chief of police, the proper licensing committee of the common council, and the Wisconsin department of revenue of any liquor or tavern business name change or any license transfer.

90-11. Renewal of License. 1. PROCEDURE FOR RENEWAL a. General. Applications for the renewal of alcohol beverage retail and wholesale establishment licenses and manager and operator licenses shall be made to the city clerk on forms provided therefor. The city clerk shall refer all applications for license renewal to the chief of police, and, excepting applications for manager's and operator's licenses, to the commissioner of neighborhood services and the commissioner of health for their review. If the chief of police and, when applicable, the commissioner of neighborhood services and commissioner of health indicate that the applicant still meets all of the licensing qualifications, the application shall be referred to the common council for approval.

b. Objection. A written objection to the renewal of the license may be filed with the city clerk by any interested person provided that the objection is filed at least 30 days prior to the date on which the license expires and sets forth specific charges against an applicant which could form a basis for nonrenewal of the license. If a written objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the

application, except as provided in par. c, shall be forwarded to the licensing committee for a hearing on whether the application should be recommended for approval or denial to the common council.

c. Warning Letter.

c-1. If the chief of police files a written report summarizing the arrest and convictions of an applicant for renewal of an operator's license, alcohol beverage wholesale establishment license or manager's license which could form a basis for nonrenewal of the application, and if no written objection has been filed under par. b, the city clerk shall, in lieu of forwarding the application to the licensing committee for a hearing under par. b, refer the application to the common council for approval and issue a warning letter to the applicant whenever all of the following are true:

c-1-a. The applicant has no more than one pending charge for a misdemeanor offense and the pending charge is related to a non-violent offense.

c-1-b. The applicant has not within 12 months of the date of application been convicted of any misdemeanor offense or municipal ordinance violation.

c-1-c. The applicant has not within 3 years of the date of application been convicted of more than one misdemeanor offense or municipal ordinance violation related to serving underage or intoxicated persons.

c-1-d. The applicant has not within 3 years of the date of application been convicted of more than 3 misdemeanor offenses and municipal ordinance violations.

c-1-e. The applicant has not within 5 years of the date of application been convicted of more than one felony offense and has not within 5 years of the date of application served probation or been imprisoned for any felony conviction.

c-1-f. The applicant has not within 10 years of the date of application been convicted of a second or subsequent offense related to operating a motor vehicle while intoxicated.

c-2. In determining the eligibility of the applicant to be issued a warning letter under this paragraph, the city clerk shall not consider either of the following:

c-2-a. Any pending charges or convictions of any misdemeanor or felony offenses related to failure to pay child support.

c-2-b. Any one conviction of a misdemeanor offense or municipal ordinance

violation related to retail theft for which the applicant was not imprisoned.

d. Notwithstanding the provisions of subds. 1 and 2, an applicant who meets the criteria of those subdivisions shall have his or her application forwarded to the licensing committee for a hearing if a written objection to the renewal is filed by any interested party.

e. Nonoperating Premises. Any holder of an alcohol beverage retail establishment license who has ceased operations at the premises specified on the license shall only be permitted to apply for and obtain one renewal license for the premises, provided that the holder of the license is residentially and in all other respects qualified to make the application. The license shall not be renewed if the licensed premises shall have been inoperative for more than one complete license year; however, the common council may waive this provision in unusual circumstances.

2. PROCEDURE FOR NON-RENEWAL.

a. Notice. **a-1.** The utilities and licenses committee of the common council shall be responsible for holding hearings regarding the nonrenewal of licenses. If there is a possibility that the committee will not renew a license, a motion should be entertained to hold the application in committee and instruct the city clerk to forward proper notice to the applicant, unless such proper notice has already been sent, in which case the hearing shall proceed.

a-2. Prior to the date set for the hearing, the city clerk's office shall forward notice to the applicant which shall contain:

a-2-a. The date, time and place of the hearing.

a-2-b. A statement of the common council's intention not to renew the license or suspend the license in the event any objections to renewal are found to be true.

a-2-c. A statement of the reasons for nonrenewal.

a-2-d. A statement that an opportunity will be given to respond to and challenge such reasons for nonrenewal and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

a-2-e. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

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b. Hearing. b-1. At the committee hearing, the chairman shall open the hearing by stating that a notice was sent, and shall read the notice into the record unless the applicant admits notice. The chairman shall advise the applicant that he or she has an option to proceed with a hearing, represented by counsel, with all testimony under oath, or he or she can make a statement.

b-2. If the applicant selects a hearing:

b-2-a. The chairman shall order all witnesses sworn in.

b-2-b. The chairman shall then ask those opposed to the renewal of the license to present their case in opposition to renewal.

b-2-c. The applicant shall then be permitted an opportunity to cross-examine witnesses in opposition to the renewal.

b-2-d. After the conclusion of the opponent's case, the applicant shall be permitted to present witnesses, testimony and exhibits subject to cross-examination.

b-2-e. Committee members may ask questions of witnesses.

b-2-f. Both sides shall be permitted a brief summary statement.

b-2-g. Stenographic records of all committee hearings shall be made.

c. Recommendation. c-1. The recommendation of the committee regarding the applicant must be based on evidence presented at the hearing. Probative evidence concerning nonrenewal may include evidence of:

c-1-a. Failure of the applicant to meet the statutory and municipal license qualifications.

c-1-b. Pending charges against or the conviction of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the circumstances of the particular licensed activity, on behalf of the licensee, his or her employees, or patrons.

c-1-c. The appropriateness of tavern location and premises.

c-1-d. Neighborhood problems due to management or location.

c-1-e. If the licensee is a corporation or licensed limited partnership, the conviction of the corporate agent, officers, directors, members or any shareholder holding 20% or more of the corporations total or voting stock, or proxies for that amount of stock, of any of the offenses enumerated in s. 125.12(2)(ag),

Wis. Stats., as amended.

c-1-f. Failure of the licensee to operate the premise in accordance with the floor plan and plan of operation submitted pursuant to s. 90-5-1-c.

c-1-g. Any other factor or factors which reasonably relate to the public health, safety and welfare.

c-2. The committee may make a recommendation immediately following the hearing or at a later date. The committee may recommend that the license be renewed or not renewed. In addition, if the committee determines that circumstances warrant it, the committee may recommend that the license be renewed conditioned upon a suspension of the license for a defined period of time. When the committee elects to recommend that a license be renewed with a period of suspension, the license may be suspended for not less than 10 days and no longer than 90 days. Such suspension shall commence on the effective date of the license renewal. Following the hearing, the committee shall submit a report to the common council, including findings of fact, conclusions of law and a recommendation as to what action, if any, the council should take. The committee shall provide the complainant and applicant with a copy of the report. The applicant may file a written objection to the report and shall have the opportunity to present arguments in writing supporting the objection to the common council. The objections must be filed with the city clerk at least 2 days prior to the date set for hearing by the common council.

d. Council Action. d-1. The applicant shall be given 5 days' notice of the date set for hearing by the full common council.

d-2. At the meeting of the common council, the chairman, in his or her discretion, may allow oral argument by an applicant or complainant who has presented written objections to the recommendations of the utilities and licenses committee. The city attorney shall also be permitted a statement. Oral arguments shall not exceed 5 minutes on behalf of any party. Applicants shall appear only in person or by counsel. Corporate applicants shall appear only by the agent or by counsel. Partnerships shall be represented only by a partner or by counsel. Limited liability companies shall be represented only by the agent or by counsel. Complainants shall appear

only in person or by counsel. Any person making an appearance before the council pursuant to this subsection and who requires the services of an interpreter shall obtain one at his or her own expense.

d-3. Prior to voting on the committee's recommendation, all members of the council who are present shall signify that they have read the recommendation and report of the utilities and licenses committee and any objections that have been filed thereto. If they have not, the chairman shall allocate time for the members to do so. If they have read the report and recommendation, then a roll call vote shall be taken as to whether or not the recommendation of the committee shall be accepted. The applicant shall be provided with written notice of the results of the vote taken by the full common council.

3. REQUEST TO SURRENDER A LICENSE. a. In the event that a licensee wishes to surrender his or her license after receiving a notice for a hearing on non-renewal, the licensee must request, in writing, permission from the proper licensing committee of the common council to do so prior to the commencement of the hearing. The committee may approve the request, or deny the request and proceed with the hearing.

b. In the event a licensee who has surrendered his or her license wishes to have the surrendered license returned, regardless of whether the license was surrendered pursuant to par. a, the licensee must request, in writing, permission from the licensing committee to do so and appear before the committee at the date, time and place specified in written notice provided to the licensee by the city clerk. The committee may approve the request and return the license without further action by the common council, or make a recommendation to the common council to deny the request based on the same grounds set forth in this chapter for non-renewal or revocation. If the committee makes a recommendation to deny the request for the return of the license, all committee recommendations shall be prepared and common council actions conducted in the same manner set forth in this chapter for non-renewal or revocation.

9. DISQUALIFICATION FOR LICENSE. a. Whenever any licensee is denied renewal, it shall be so entered on the record by the city

clerk and no other alcohol beverage license shall be so granted to such person for that location within 12 months of the date of nonrenewal.

b. If the license renewal was denied for a reason relating to the fitness of the location, no other alcohol beverage license shall be granted within 12 months from the date of the nonrenewal to any other applicant at that location.

c. When any license is surrendered in lieu of pending nonrenewal proceedings, no other alcohol beverage license shall be granted to such person within 12 months of the date of its surrender.

90-12. Revocation or Suspension of Licenses.

1. CAUSES. Any license issued under this chapter may be suspended or revoked for cause by the common council after notice to the licensee and a hearing. Such licenses shall be suspended or revoked for the following causes:

a. The making of any material false statement in any application for a license.

b. The conviction of the licensee, his agent, manager, operator or any other employee for keeping a gambling house or a house of prostitution or any felony related to the licensed operation.

c. A showing that such license has violated any state law or city ordinance prohibiting the sale of intoxicating liquors or fermented malt beverages to underage persons, or to any person intoxicated or bordering on the state of intoxication.

d. The violation of the provisions in ss. 90-7 through 90-10 and 90-13 through 90-31.

e. The violation of any of the excise laws of this state.

f. The licensed premises is operated in such a manner that it constitutes a public or private nuisance or that conduct on the licensed premises, including but not limited to loud and raucous noise, has had a substantial adverse effect upon the health, safety or convenience and prosperity of the immediate neighborhood; or

g. If the licensee is a corporation or licensed limited partnership, the conviction of the corporate agent, officers, directors, members or any shareholder holding 20% or more of the corporation's total or voting stock,

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or proxies for that amount of stock, of any of the offenses enumerated in s. 125.12(2)(ag), Wis. Stats., as amended.

h. Failure of the licensee to operate the premise in accordance with the floor plan and plan of operation submitted pursuant to s. 90-5-1-c.

i. For any other reasonable cause which shall be in the best interests and good order of the city.

3. STATE LAW APPLICABLE. Except as hereinafter provided, the provisions of ss. 125.12(2)(ag) to (c), Wis. Stats., shall be applicable to proceedings for the suspension and revocation of all licenses granted under this chapter.

4. COMMENCEMENT OF PROCEEDINGS. Suspension or revocation proceedings may be instituted by the proper licensing committee of the common council upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any city resident.

5. PROCEDURES FOR REVOCATION OR SUSPENSION. a. Complaint; Summons.

a-1. Whenever either sworn written charges or a sworn written complaint are filed with the city clerk setting forth specific charges against a licensee involving conduct which would violate statutes or ordinances that are grounds for revocation or suspension of a license, the city clerk shall issue a summons, as authorized by Wisconsin statutes, demanding that the licensee appear before the utilities and licenses committee, not less than 3 days nor more than 10 days from the date of issuance, to show cause why the license should not be revoked or suspended.

a-2. A police officer shall serve the summons upon a licensee in accordance with Wisconsin statutes, and shall also serve a copy of the complaint with a copy of this subsection upon the licensee.

b. Committee Hearing. b-1. Upon receipt of evidence that the summons has been served, the utilities and licenses committee shall convene at the date and time designated in the summons for the purpose of taking evidence and making findings of fact and conclusions of law and a recommendation to the full common council in connection with the proposed revocation or suspension.

b-2. If the licensee appears before the committee at the time designated in the summons and denies the charges contained in the complaint, an evidentiary hearing in

connection with the revocation or suspension shall be conducted by the committee at that time. If the licensee does not appear, or appears but does not deny the charges contained in the complaint, the complaint shall be taken as true and the committee shall hear the arguments of the city attorney and the licensee in connection with the revocation or suspension.

b-3. At any evidentiary hearing required by this subsection, the city attorney shall first present evidence in support of the complaint. After the city attorney rests, the licensee shall present evidence in opposition to the complaint. Each may subpoena witnesses. All witnesses shall testify under oath and shall be subject to cross-examination under oath. At the close of the testimony, each shall be given a reasonable time to make arguments upon the evidence adduced at the hearing.

b-4. The chairman of the utilities and licenses committee shall be the presiding officer. The chairman shall direct that oaths be administered and subpoenas issued upon request of either side. The chairman shall ensure that an orderly hearing is conducted in accordance with the requirements of this subsection. The chairman shall rule on objections to the admissibility of evidence. Any ruling of the chairman shall be final unless appealed to the committee, and the committee shall reverse such ruling only upon the vote of a majority of its members.

b-5. At all stages of the proceedings before the committee or before the common council, the licensee shall be entitled to appear both in person and by an attorney.

b-6. A stenographic record shall be made of all proceedings before the committee and before the common council when written exceptions have been filed. Any interested party may at any stage of the proceedings order a copy of the transcript of the record or portions thereof at his or her own expense.

c. Committee Report. c-1. Within 10 working days after it reaches a decision, the committee shall prepare and serve a report and recommendation on the licensee and transmit a copy thereof to the city attorney. The report and recommendations shall include specific findings of fact and conclusions of law made by the committee. The report shall be distributed to each member of the common council.

c-2. If the committee recommends that the license be revoked or suspended, then within 7 days of the receipt of the report and

recommendation of the committee, the licensee shall file written exceptions, if any, to the report and recommendations of the committee.

c-3. Any exceptions filed by the licensee to the report and recommendations of the committee shall be provided to each member of the common council at least 24 hours before any vote on the question is scheduled before the full common council.

d. Council Action. d-1. At a meeting of the common council following the receipt of the report and recommendations of the committee, the common council shall consider the report and recommendation. Not less than 5 days prior to the hearing before the common council, the city clerk shall notify the licensee and complainant by certified mail and also notify the city attorney that the common council will convene. If written exceptions are filed, the hearing shall be at the time set for such proceedings by the council's rules. Each member of the common council shall be asked to affirm that he or she has read the report and recommendation of the committee. When written exceptions are filed to a committee report and recommendation that the license be suspended or revoked, each member of the common council shall be asked to affirm that he or she has read the exceptions. If members of the council have not read the recommendation and report of the committee and any exceptions that have been filed thereto, the chair shall allocate time for the members to do so. Oral argument in support of the report and recommendation presented by the city attorney, oral argument on behalf of the licensee in opposition to the report and recommendation and oral argument by the complainant objecting to the report and recommendation shall be permitted only at the discretion of the chair. If argument is permitted by the chair, argument shall be limited to 5 minutes and the arguments shall be limited to the subject matter of the report and recommendation and the written exceptions. Licensees shall appear only in person or by counsel. Corporate licensees shall appear only by the agent or by counsel. Partnerships shall be represented only by a partner or by counsel. Limited liability companies shall be represented only by the agent or by counsel. Complainants shall appear only in person or by counsel. Any person making an appearance before the council pursuant to this subsection and who requires the services of an interpreter shall

obtain one at his or her own expense.

d-2. The common council shall determine by a majority vote of those in attendance and voting whether to adopt the recommendation of the committee. Such vote shall be a roll call vote. If the common council finds the complaint to be true, or if there is no objection to a report recommending suspension or revocation with the committee's report and recommendation and in accordance with Wisconsin statutes, the city clerk shall give notice of each suspension or revocation to the person whose license is suspended or revoked. If the common council finds the complaint to be untrue, the proceedings shall be dismissed without cost to the accused.

e. Effective Date of Suspension or Revocation. All suspensions and revocations shall be effective upon service of notice of the suspension or revocation upon the licensee or person in charge of the licensed premises at the time of service.

7. REQUEST TO SURRENDER A LICENSE. a. In the event that a licensee wishes to surrender his or her license after receiving a notice for a hearing on revocation or suspension, the licensee must request, in writing, permission from the proper licensing committee of the common council to do so prior to the commencement of the hearing. The committee may approve the request, or deny the request and proceed with the suspension or revocation hearing.

b. In the event a licensee who has surrendered his or her license wishes to have the surrendered license returned, regardless of whether the license was surrendered pursuant to par. a, the licensee must request, in writing, permission from the licensing committee to do so and appear before the committee at the date, time and place specified in written notice provided to the licensee by the city clerk. The committee may approve the request and return the license without further action by the common council, or make a recommendation to the common council to deny the request based on the same grounds set forth in this chapter for non-renewal or revocation. If the committee makes a recommendation to deny the request for the return of the license, all committee recommendations shall be prepared and common council actions conducted in the same manner set forth in this chapter for non-renewal or revocation.

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8. DISQUALIFICATION FOR LICENSE. a. Whenever any license is revoked it shall be so entered of record by the city clerk and no other alcohol license shall be granted to such person within 12 months of the date of its revocation nor shall any part of the money paid for any license so revoked be refunded.

b. No other intoxicating liquor license or fermented beverage license shall be granted within 30 days from the date of the revocation of such license to any other person to sell intoxicating liquors or fermented malt beverages on the premises operated by the licensee whose license has been so revoked.

c. When any license is surrendered in lieu of pending revocation or suspension proceedings, no other alcohol beverage license shall be granted to such person within 12 months of the date of its surrender nor shall any part of the money paid for any license that has been surrendered be refunded.

90-13. Alterations to Premises. Any alteration, change or addition resulting in expansion of a licensed premises shall be approved by the utilities and licenses committee prior to issuance of a permit pursuant to s. 200-24 by the department of city development. An applicant whose permit application has been denied by the committee may appeal the decision to the common council.

90-14. Restrictions as to Location of Premises.

1. 300 FEET RESTRICTION. No Class "A" or Class "B" license for the sale of intoxicating liquor may be issued for premises the main entrance of which is less than 300 feet from the main entrance of any church, school or hospital. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church or hospital to the main entrance of the premises covered by the license.

2. EXCEPTIONS. The prohibition in sub. 1 does not apply to any of the following:

a. Premises covered by a Class "A" or Class "B" license on June 30, 1947.

b. Premises covered by a Class "A" or Class "B" license prior to the occupation of real property within 300 feet thereof by school, hospital or church building.

c. A restaurant located within 300 feet of a church or school. This paragraph applies only to restaurants in which the sale of

alcohol beverages accounts for less than 50% of its gross receipts.

90-15. Hours of Operation. 1. CLASS "A" RETAILER'S INTOXICATING LIQUOR LICENSE. No premises for which a Class "A" retailer's intoxicating liquor license has been issued shall be permitted to remain open for the sale of intoxicating liquor between the hours of 9:00 p.m. and 8:00 a.m.

2. CLASS "A" FERMENTED MALT BEVERAGE RETAILER'S LICENSE. No holder of such a license shall sell fermented malt beverages between the hours of 9:00 p.m. and 8:00 a.m.

3. CLASS "B" FERMENTED MALT BEVERAGE AND INTOXICATING LIQUOR RETAILER LICENSES OR CLASS "B" SERVICE BAR LICENSE. a. Closing Hours - Prohibited Hours. a-1. No person holding such licenses shall permit a patron to enter or remain on the licensed premises between the hours of 2 a.m. and 6 a.m., except as otherwise provided in this subdivision and subd. 2. On January 1, premises operating under such licenses are not required to close. On Saturday and Sunday, no premises may remain open between 2:30 a.m. and 6 a.m.

a-2. Hotels and restaurants the principal business of which is the furnishing of food, drinks or lodging to patrons, bowling centers, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell intoxicating liquor or fermented malt beverages during the prohibited hours under subd. 1.

a-3. No patron shall enter or remain on the licensed premises during the hours specified in subd. 1.

b. Special Hours for Sale in Original Packages. Between 9:00 p.m. and 8:00 a.m. no person may sell any intoxicating liquor or fermented malt beverages on any Class "B" licensed premises in an original unopened package, container, or bottle or for consumption away from the premises.

4. HOURS FOR MUSIC. See s. 90-36-1 and 2 for the applicable regulations.

5. PENALTY. A patron who is convicted of violating sub. 3-a-3 shall be subject to a forfeiture of not more than \$250 and in default thereof, shall be imprisoned in the county jail or house of correction for a period not to exceed 10 days.

90-16. Display of License. Every person licensed under this chapter shall immediately post such license and keep the same posted while in force in a conspicuous place in the room or place where said beverages are drawn or removed for service or sale. It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application, or knowingly to deface or destroy such license. Whenever a license shall be lost or destroyed without fault on the part of the licensee or his agent or employe, a duplicate license in lieu thereof under the original application shall be issued by the city clerk on satisfying himself as to the facts.

90-17. Tavern Charges to be Posted. All entertainment, admission, cover and minimum charges shall be posted by the tavern licensee in a conspicuous place near the main entrance in the room where the patron or patrons are served. Said charges shall be uniformly displayed in letters and figures of the same size.

90-18. Sale to an Underaged Person Prohibited.

1. SALES OF ALCOHOL BEVERAGES TO UNDERAGED PERSONS. a. Restrictions.

a-1. No person may procure for, sell, dispense or give away any alcohol beverages to any underaged person not accompanied by his or her parent, guardian or spouse who has attained the drinking age.

a-2. No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with any underaged person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

a-3. No person may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the person or under the person's control. This subdivision does not apply to alcohol beverages used exclusively as part of a religious service.

a-4. No person may intentionally encourage or contribute to a violation of subds. 1, 2 or 3 with respect to an underage person.

b. Penalties and License Suspension for Sale to Underage Person. b-1. In this paragraph, violation means a violation of sub. 1. For the purpose of determining whether or not a previous violation has

occurred, if more than one violation occurs at the same time all those violations shall be counted as one.

b-2. A person who commits a violation is subject to a forfeiture of:

b-2-a. Not more than \$500 if the person has not committed a previous violation within 12 months of the violation.

b-2-b. Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.

b-2-c. Not less than \$500 nor more than \$1,000 if the person has committed 2 previous violations within 12 months of the violation.

b-2-d. Not less than \$1,000 nor more than \$5,000 if the person has committed 3 or more previous violations within 12 months of the violation.

b-3. A court shall suspend any license or permit issued under this chapter to a person and shall revoke the person's right to purchase stamps from the Wisconsin department of revenue for:

b-3-a. Not more than 3 days, if the court finds that the person committed a violation within 12 months after committing one previous violation.

b-3-b. Not less than 3 days nor more than 10 days, if the court finds that the person committed a violation within 12 months after committing 2 other violations; or

b-3-c. Not less than 15 days nor more than 30 days, if the court finds that the person committed the violation within 12 months after committing 3 other violations.

b-4. The court shall promptly mail notice of a suspension under this paragraph to the department of revenue and to the clerk of each municipality which has issued a license or permit to the person.

c. Penalty; Underage Persons. Any underage person who procures or attempts to procure alcohol beverages is subject to the penalties provided by s. 125.07(4) Wis. Stats.

2. POSSESSION OF ALCOHOL BEVERAGES BY UNDERAGE PERSONS; PROHIBITIONS; PENALTY. Any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, who knowingly possesses or who consumes any alcohol beverages is subject to the penalties provided by s. 125.07(4) Wis. Stats. This subsection does not apply to an underage person processing alcohol beverage in the course of employment during his or her

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working hours if he or she is employed by a brewer, a fermented malt beverage wholesaler, a permittee other than a Class "B" fermented malt beverage or intoxicating liquor permittee, a facility for the production of alcohol fuel, a retail licensee under conditions specified in s. 90-19-1-i or for the delivery of unopened containers to the home or vehicle of a customer, or a campus, if the underage person is at least 18 years of age, and is under the immediate supervision of a person who has attained the legal drinking age.

3. MISREPRESENTATION OF AGE; PENALTY. Any person who falsely represents that he or she is of legal drinking age or over for the purpose of receiving alcohol beverages from a licensee or permittee is subject to the penalties provided by s. 125.07(4) Wis. Stats.

90-19. Presence of Underage Persons in Places of Sale; Penalty. 1. RESTRICTIONS. No underaged person, not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, may enter, knowingly attempt to enter, or be on any premises for which a license or permit for the retail sale of alcohol beverages has been

issued, for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employee. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This subsection does not apply to:

a. An underage person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.

b. An underage person who enters or is on a Class "A" premises for the purpose of purchasing items other than alcohol beverages. Any underage person so entering the premises may not remain on the premises after the purchase.

c. Hotels, drug stores, grocery stores, bowling alleys, cars operated by any railroad, regularly established athletic fields, stadiums, public facilities as defined in s. 125.51(5)(b)1.d., Wis. Stats., which are owned by a county or municipality or centers for the visual or performing arts.

d. Premises in the state fair park, concessions authorized on state-owned

premises in the state parks and state forests as defined or designated in chs. 27 and 28, Wis. Stats., and parks owned or operated by agricultural societies.

e. Ski chalets, golf courses and golf clubhouses, curling clubs, private soccer clubs and private tennis clubs.

f. Premises operated under both a Class "B" or "Class B" license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a Class "B" or "Class B" license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.

g. An underage person who enters or remains on a Class "B" premises for the purpose of transacting business at an auction or market if the person does not enter or remain in a room where alcohol beverages are sold, furnished or possessed.

h. A person who is at least 18 years of age who serves alcohol beverages on a licensed premises under the immediate supervision of the licensee, agent or person holding an operator's license, who is on the premises at the time of the service.

i. A person who is at least 18 years of age and who is working under a contract with the licensee or agent to provide entertainment for customers on the premises.

j. An underage person who enters or remains on Class "B" or Class "B" licensed premises on a date specified by the licensee during times when no alcohol beverages are consumed, sold or given away. See s. 90-19.5 for regulations with respect to the operation of a licensed premises under this paragraph.

k. An underage person who enters or remains in a dance hall attached to Class "B" or "Class B" licensed premises if the dance hall is separate from any room where alcohol beverages are sold, if there is a separate entrance to the dance hall and if no alcohol beverages are furnished or consumed by any person in the dance hall where the underage person is present.

2. PENALTIES. a. Licenses, etc.

a-1. A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of sub. 1 is subject to a forfeiture of not more than \$500.

a-2. No person may intentionally encourage or contribute to a violation of sub. 1. Any person violating sub. 1 is subject to the penalty provided by subd. 1.

b. Underage Person. An underage person who enters or is on a premises licensed for the sale of alcohol beverages in violation of sub. 1 is subject to the penalties provided by s. 125.07(4) Wis. Stats.

90-19.5. Presence of Underage Persons During Times When No Alcohol Beverages Are Sold. Underage persons may enter or remain on a Class "B" or Class "B" licensed premises pursuant to s. 90-19-1-k under the following conditions:

1. NOTIFICATION OF TIMES. a. The licensee or agent shall notify the police chief at least 7 days prior to any date on which underage persons will be permitted to enter and remain on the premises. The time period may be waived by the police chief or a designee upon determination of good cause or special circumstances.

b. Each event shall require separate notification. Notification shall be in writing and contain the following information:

b-1. Dates and times of the event.

b-2. Specific nature of the event, including description of entertainment.

b-3. Number of persons expected on the premises.

2. REGULATIONS. The operation of a licensed premises during those times when underage persons are on the premises under this section shall be subject to the following regulations:

a. There shall be at least a one hour period between the serving of the last alcohol beverage and the commencement of operations under this section.

b. No alcohol beverages may be consumed, sold or given away in any part of the licensed premises.

c. All alcohol beverages on tables shall be removed.

d. The licensee, the agent named in the license if the licensee is a corporation, or a person who has an operator's license shall be on the premises unless all alcohol beverages are stored in a locked portion of the premises.

e. The licensee shall be responsible for the adequate supervision of the premises, and such supervision shall consist of adult persons 21 years of age or older.

f. Closing hours shall be no later than 1 a.m. on weekdays and 1:30 a.m. on Sundays.

g. An announcement shall be made 20 minutes prior to the beginning of curfew hours specified in s. 106-23 to provide for the exit of those underage persons subject to s. 106-23. All entertainment shall cease for the 20 minute period before the curfew.

h. All underage persons must be off the licensed premises at least 1/2 hour prior to the resumption of alcohol beverage sales.

90-20. Sale to Intoxicated Person Prohibited. It shall be unlawful for any licensee under this chapter, or any of his employees, to sell, serve or give away intoxicating liquor or fermented malt beverages to any intoxicated person or person bordering on a state of intoxication.

90-20.5. Theft of Cable Service and Tampering Prohibited. 1. THEFT OF CABLE SERVICES AND TAMPERING. No licensee, employee or patron of a Class "B" licensed premises whether or not a subscriber to the Milwaukee cable television and communications system may intentionally or knowingly damage or cause to be damaged any wire, cable, conduit, equipment or apparatus of the grantee of the Milwaukee city cable communications franchise, or commit any act with intent to cause such damage, or to tap, tamper with or otherwise connect any wire or device to a wire, cable, conduit, equipment and apparatus or appurtenances of the grantee with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to the grantee, or to obtain cable television or other communications service with intent to cheat or defraud the grantee of any lawful charge to which it is entitled.

2. PENALTIES. a. Forfeiture. A person who commits a violation of this section is subject to a forfeiture of not less than \$500 nor more than \$1,000.

b. License Suspension. A court shall suspend any license or permit issued under this chapter to a person and shall revoke the person's right to purchase stamps from the Wisconsin department of revenue for:

b-1. Not more than 3 days, if the court finds that the person committed a violation of this section.

b-2. Not less than 3 days nor more than 10 days, if the court finds that the person

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committed a second or subsequent violation of this section.

90-21. Disorderly Premises Prohibited. It shall be unlawful to suffer or permit any gambling or gaming for money or other valuable thing, drunkenness, or disorderly conduct as defined in s. 106-1 or upon any licensed premises where intoxicating liquor or fermented malt beverages are sold or kept for sale.

90-22. Certain Costumes on Class "B" Premises Prohibited. 1. CERTAIN COSTUMES PROHIBITED. No licensee, either personally or through his or her agent or employe, shall furnish entertainment or permit the performance of any act, stunt or dance by dancers, performers or entertainers, whether such dancers, performers or entertainers are employed by the licensee or through his or her agent or not, and no entertainer or employe shall furnish any entertainment or perform any act, stunt or dance unless such dancers, performers or entertainers shall meet the following wearing apparel standards when performing or when present upon the premises:

a. That portion of every costume to be worn by dancers, performers or entertainers covered by this subsection and which relates to the breast or chest area and/or to the area of the sex organs and buttocks shall be of nontransparent material.

b. The top portion of the costume worn by a female dancer, performer or entertainer or a female impersonator shall be so conformed, fabricated and affixed to the body so as to keep the areola and the nipple of the breast completely covered at all times.

c. The lower portion of the costume worn by a female dancer, performer or entertainer, or a female impersonator shall encircle the body at the area of the sex organs and buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the sex organs, the pubic hair and the cleavage of the buttocks at all times. An animal fur piece or other device simulating the hair surrounding the pubic area shall not constitute compliance with the costume requirements of this section.

d. The lower portion of the costume worn by a male dancer, performer or entertainer shall encircle the area of the sex organs and the buttocks. This portion of the

costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the pubic hair, sex organ and the cleavage of the buttocks at all times.

2. EXEMPTIONS. The provisions of sub. 1 do not apply to the following licensed establishments if these establishments offer live dance, ballet, music or dramatic performances of serious artistic merit on a regular basis and if the predominate business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishments are not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing:

- a. Theaters.
- b. Performing arts centers.
- c. Civic centers.
- d. Dinner theaters.

3. DISORDERLY CONDUCT BY PATRONS PROHIBITED. No licensee, either personally or through his agent or employe, shall permit any patron to participate in any act, stunt or dance in violation of this section.

4. REVOCATION FOR NONCOMPLIANCE. The common council may revoke any license issued hereunder at any time for any violation of this section. Notice and hearing on such revocation shall be conducted in accordance with s. 90-12.

90-23. Solicitation Prohibited. 1. PROHIBITION. Any employe, manager, bartender, entertainer or licensee of a Class "B" fermented malt beverage or Class "B" retail intoxicating liquor licensed establishment shall not solicit, appeal to, ask or invite any unacquainted person of either sex to purchase for, procure for or give to such person or to a third person or party a drink of intoxicating liquor, fermented malt beverage, nonintoxicating liquor or soda water beverage in any Class "B" fermented malt beverage or Class "B" intoxicating liquor licensed premises.

2. PENALTY. Any person found guilty of violating this section shall be subject to a forfeiture in a sum not less than \$50 nor more than \$200, and in default of payment thereof, shall be imprisoned in the county jail or house of correction of Milwaukee county for a period not to exceed 6 months.

90-24. Sanitary Requirements. 1. Class "B" retail intoxicating liquor licenses are subject to rules on sanitation. The rules and regulations made by the state department of health and social services and the ordinances and rules and regulations of the city of Milwaukee governing sanitation in restaurants shall apply to all Class "B" retailer's intoxicating liquor licensed premises. No Class "B" retailer's intoxicating liquor license shall be issued unless the premises to be licensed conforms to such rules and regulations.

2. As stated in s. 17-13 of the charter, in order to promote and secure the general health and welfare of the city whenever the commissioner of health finds unsanitary or other conditions in the operation of a food or drink service establishment, including any Class "B" fermented malt beverage or intoxicating liquor licensed premises, which in the commissioner's judgment constitutes a substantial hazard to the public health, the commissioner may without warning, notice or hearing issue a written notice to the operator of the establishment citing such condition, specifying the time period within which such action shall be taken. If deemed necessary for the health of the public, the order shall state that all food and drink service operations, including the service of all intoxicating liquor or fermented malt beverages, are to be immediately discontinued. Any person to whom such an order is issued shall immediately comply therewith, but upon written request to the commissioner of health shall be provided a hearing as stated in s. 68-6 for suspension or revocation of a food dealer's license.

90-25. Employment of Minors. 1. Minors under 14 years of age are prohibited from working in establishments selling or possessing intoxicating liquor or fermented malt beverages.

2. Minors 14 to 17 years of age may be employed in establishments where intoxicating liquor or fermented malt beverages are present so long as the minors do not sell, serve or dispense the fermented malt beverages or intoxicating liquor.

90-26. Restrictions on Unlicensed Persons Functioning as Class "D" Operators. 1. CLASS "A" INTOXICATING LIQUOR RETAILER'S LICENSE. No person other than the licensee in any place operated under a Class "A" retailer's intoxicating liquor license shall sell or serve any

intoxicating liquor unless he shall be under the immediate supervision of the licensee or a person holding an operator's license who shall be at the time of said sale or service upon said premises.

2. CLASS "A" FERMENTED MALT BEVERAGE RETAILER'S LICENSE. No person other than the licensee shall sell fermented malt beverages in any place operated under a Class "A" fermented malt beverage retailer's license unless he or she possesses an operator's license, or unless he or she is under the immediate supervision of the licensee or a person holding an operator's license who is at the time of such service upon the premises.

3. CLASS "B" OR CLASS "C" RETAILER'S LICENSE. No person other than the licensee shall draw, remove or serve fermented malt beverages or intoxicating liquor in any place operated under a Class "B" or Class "C" retailer's license to a customer for consumption on or off the premises where sold, unless he or she shall possess a Class "D" operator's license or a Class "B" manager's license, or unless he or she shall be under the immediate supervision of the licensee, or a person holding an operator's or manager's license who shall be at the time of such service upon said premises.

90-27. Licensed Premises Accessible and Lighted. 1. OPEN ENTRY. The entrance doors to any such licensed premises and serving rooms shall at all times remain unlocked during the

conduct of business on such licensed premises, provided, however, a licensee may apply to the common council for an annual permit to be granted by the common council to said licensee permitting that the entrance doors to certain licensed premises and serving rooms be locked or so controlled as to allow only members and guests to gain entry into said premises provided that:

a. The licensee be an organization which is the owner, lessee or occupant of a building used exclusively for club purposes and operated solely for fraternal, social, patriotic, benevolent or athletic purposes, and not for pecuniary gain. Said organization must have been issued a certificate of incorporation as a fraternal society under the provisions of ch. 188, Wis. Stats. for at least 5 years before such entrance doors may be locked.

b. The trafficking in intoxicating liquors shall be incidental only and not the object of the existence or operation of the structure.

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c. The licensee must, upon request, issue to the police department, local and state authorities, means to gain immediate entry to the locked premises equal to that offered to any member of the organization.

d. All entrance doors to said licensed premises and serving rooms may not be so locked or controlled so as to prevent or interfere with the safe egress of occupants in case of fire or other emergency, and, in regard thereto, there must be compliance with ch. 254 and with all other local and state rules, regulations and laws.

2. **DOORS KEPT CLOSED.** All doors used for the admission of patrons to any Class "B" tavern premises shall, except when used for ingress and egress, be kept closed after 10 p.m. during the conduct of business on the premises.

3. **ADJACENT ROOMS.** All separate rooms adjacent to the licensed tavern area of premises licensed for the sale of soda water where malt beverages, intoxicating liquor or soft drinks are served, shall be on the same floor with the licensed tavern area and shall abut and open directly upon a street or alley, and shall be further provided with doorless openings to the tavern area at least 2 feet 6 inches in width and at least 6 feet 8 inches in height and doorless openings between rooms 7 feet square in width and height. All other such rooms not abutting a street or alley shall have doorless openings to the tavern area and between rooms at least 7 feet square in width and height.

4. **TAVERN PREMISES.** All rooms where such beverages are to be served shall be designated in the application for the tavern license as part of the tavern premises, and said application shall be investigated as provided by s. 90-5, and only such rooms shall be so used for tavern purposes, and no alterations, changes or additions shall be made to such designated licensed premises without first securing a permit for such alterations, changes or additions from the commissioner of city development.

5. **HOTELS; CLUBS.** Nothing in this section shall prohibit the serving of intoxicating liquors or fermented malt beverages to

registered guests in their rooms at hotels and clubs having a hotel license and having a license to sell such beverages; and provided, further, that nothing contained in this section shall prohibit the serving of such intoxicating liquors or fermented malt beverages to guests in private dining rooms in hotels and restaurants which are licensed to sell such beverages if such guests in any one such room be 4 or more in number or, if less than 4 in number, if they be of the same sex; and provided, further, that such license shall entitle the holder thereof to serve intoxicating liquors or fermented malt beverages in separate rooms maintained solely for public banquet or dinner functions or in regularly maintained public dining rooms where such beverages are served only with meals or food.

6. **ILLUMINATION.** All areas of taverns which are accessible to the public and which are licensed under this chapter shall be illuminated at all times during the conduct of business to a minimum intensity of not less than 1.5 foot candles. This designated illumination intensity shall be maintained on a horizontal plane not higher than 32 inches above the floor and all illumination measurements taken for the purpose of this section shall be taken while the sensitive element of the light target is in a horizontal position.

90-28. Misleading Advertising Prohibited in Class "B" Taverns. The following regulations are enacted to govern the conduct of business under Class "B" tavern licenses in the city:

1. No person, firm or corporation conducting a business under a Class "B" tavern license shall use the words, "super bar" or "value bar" in connection with the name of such business in any manner whatsoever, either on or off the premises so licensed.

2. There shall be no misleading, fraudulent or illegal advertising.

3. There shall be no advertising of prices of individual drinks of intoxicating liquor or fermented malt beverages displayed in the exterior windows of the licensed premises.

4. There shall be no advertising of prices either in the windows or on the outside

of the licensed premises, or in newspapers or flyers, or in any other manner, by which advertising the licensee holds himself out as selling, dealing or trafficking in intoxicating liquor in the original package or container in quantities of more than 4 liters at any one time, to be consumed off premises so licensed or as selling fermented malt beverages at wholesale.

5. There shall be no indication either in or about the licensed premises or in the method of conduct of operation of the Class "B" tavern business by which indication the licensee holds himself out as selling, dealing or trafficking in intoxicating liquor in the original package or container in quantities of more than 4 liters at any one time, to be consumed off premises so licensed or as selling fermented malt beverages in quantities of more than 4-1/2 gallons or at wholesale.

90-28.5. Advertising in Class "A" Fermented Malt Beverage Premises. No person may advertise the price of fermented malt beverages by display on the exterior walls or windows whether on the interior or exterior of those windows of a Class "A" fermented malt beverage retailer premises.

90-29. Alcoholic Content to Show on Label. No fermented malt beverages or intoxicating liquors shall be sold unless the barrel, keg, cask, bottle or other container containing the same shall have thereupon at the time of a sale a label of the kind and character required by statute. Every bottle shall contain upon the label thereof a statement of the contents in fluid ounces in plain and legible form.

90-30. Selling of Illegal Beverages Prohibited. No beverages of an alcoholic content prohibited by the laws of the United States shall be kept in or about licensed premises.

90-31. Refilling Bottles or Substitution of Brands Prohibited. **1. RETAILER MAY NOT BOTTLE OR REFILL.** No Class "A" or "B" intoxicating liquor or fermented malt beverage retailer licensee may bottle any intoxicating liquor or fermented malt beverage nor may he refill any bottle or add to the contents thereof from any other barrel or container.

2. SERVE NO SUBSTITUTE. No licensee or his employe selling intoxicating liquors or fermented malt beverages by the drink, when requested to serve a particular brand or type of intoxicating liquor or fermented malt beverage shall substitute another brand or type of intoxicating liquor or fermented malt beverage without telling the patron of the substitution.

90-32. Fraud on Tavern Keepers Prohibited.

1. PROHIBITED. It shall be unlawful for any person: a. Having obtained any food, lodging or beverages of any kind or other services at any tavern, to intentionally abscond without paying for it.

b. While a patron at any tavern, to intentionally defraud the keeper thereof in any transaction arising out of such relationship as a patron.

2. EVIDENCE. Under this section, prima facie evidence of an intent to defraud is shown by:

a. The refusal of payment upon presentation when due, and the return unpaid of any bank check or order for the payment of money, given by any patron to any tavern, in payment of any obligation arising out of such relationship as patron. Such facts shall also be deemed prima facie evidence of an intent to abscond without payment.

b. The failure or refusal of any patron at a tavern, to pay, upon written demand, the established charge for food, beverages of any kind or other services actually rendered.

c. The giving of false information or the presenting of false or fictitious credentials for the purpose of obtaining credit, food, beverages or other services.

d. The drawing, endorsing, issuing or delivering to any tavern, of any check, draft or order for payment of money upon any bank or other depository, in payment of established charges for food, beverages of any kind, or other service, knowing at the time that there is not sufficient credit with the drawee bank or other depository for payment in full of the instrument drawn.

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90-33. Kinds of Tavern Amusement, Dancing and Music Licenses. Any person holding a valid Class "B" tavern, Class "B" fermented malt beverage or Class "C" wine license may apply for any of the following licenses and permits:

1. TAVERN AMUSEMENT LICENSE. A tavern amusement license shall entitle the holder to give, permit, produce, present, conduct and offer entertainment or exhibitions consisting of music, dancing, singing, floor shows and cabaret performances upon the licensed premises.

1.5. SPECIAL TAVERN AMUSEMENT LICENSE. A special tavern amusement license shall entitle the holder, that holds the status of an organization that is described in s. 501(c)(3) of the internal revenue code of the United States, of a Class "B" tavern license issued specifically for a premises upon the Henry W.

Maier Festival Park grounds to give, permit, produce, present, conduct and offer entertainment or exhibitions consisting of music, dancing, singing, floor shows and cabaret performances during an event operated by the license holder upon the Henry W. Maier Festival Park grounds. Each special tavern amusement license may be issued only for one event per calendar year operating for a period of no more than 4 consecutive calendar days for a premises upon the Henry W. Maier Festival Park grounds. Any applicant desiring a special tavern amusement license shall apply for the license not less than 45 days before the first date of the period for which the license is sought.

2. TAVERN DANCE LICENSE. A tavern dance license shall entitle the holder to permit dancing by patrons upon the licensed premises. It shall permit prerecorded music, and instrumental music as described in subs. 4 and 5, but shall not permit entertainments or exhibitions or floor shows; provided that this shall not be construed to prohibit amateur theatrical performances, singing or dancing commonly conducted by bona fide clubs, organized labor unions, political organizations, lodges or similar societies that have been in existence 6 months or more in halls to which a tavern dance license has been issued, and which halls are preponderantly used and rented on a per diem basis by such organizations for gatherings, entertainments and dances.

3. SPECIAL TAVERN DANCING PERMIT. a. A special permit authorizing dancing upon licensed premises may be issued to the license holder by the city clerk, provided the license holder complies with all the provisions of this subsection. The city clerk shall notify the police department of the issuance of all permits

issued pursuant to this subsection.

b. Any license holder desiring a special tavern dance permit shall apply for the permit not less than 45 days before the date for which the permit is sought. This application shall be made in writing on a form provided therefor by the city clerk. Each permit sought shall require a separate application. The completed application shall be referred to the common council member representing the district in which the premises for which the permit is sought is located. The common council member shall determine whether or not to grant each special tavern dancing permit and shall inform the city clerk of his or her decision. In making his or her determination, the common council member shall consider the following factors:

b-1. The appropriateness of the location and premises for which the permit is sought and whether the event for which the permit is sought will create undesirable neighborhood problems.

b-2. The hours during which dancing would be permitted on the premises and the likely effect of this activity on the surrounding area.

b-3. Whether previous permits granted to the same applicant or to other applicants for the same premises have resulted in neighborhood problems including, but not limited to, complaints of loud music, noise, litter, disorderly assemblages, loitering or public urination.

b-4. Whether or not the applicant has been charged or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the activity for which the permit is sought.

b-5. Any other factors which reasonably relate to the public health, safety and welfare.

c. An applicant may appeal the decision of a common council member to the licensing committee of the common council. A hearing of an appeal shall be conducted as set forth in s. 90-5-8-b. The committee may make a decision immediately following the hearing or on a later date. In making its decision, committee members may consider the factors set forth in par. b-1 to 5. Written notice of the committee's decision will be provided if the decision is made at a later date or if the applicant was not present. In these instances, the decision of the licensing committee shall be final and the applicant shall have no right of appeal to the common council.

d. In those instances in which a permit is sought for a premises in a district where the common council seat is vacant, the application shall be referred directly to the licensing committee of the council for a decision as to whether or not to grant the permit. A hearing on

whether or not to grant a permit shall be conducted as set forth in s. 90-5-8-b. In making its decision, committee members may consider the factors set forth in par. b-1 to 5. An applicant may appeal the decision of the licensing committee to the common council. In the case of an appeal, the committee shall forward its decision in writing to the common council for vote at the next meeting at which such matter will be considered. In making its decision, common council members may consider the factors set forth in par. b 1 to 5.

e. The city clerk may grant a special dancing permit to an applicant who files his or her application fewer than 45 days before the event for which the permit is sought provided the applicant waives his or her right to an appeal of any decision made by a common council member pursuant to par. b.

f. No more than 20 special dancing permits shall be issued for the same premises in any license year. No more than 4 special dancing permits shall be issued for the same premises in any calendar month.

g. Every person issued a special dancing permit pursuant to this section shall post the permit in a conspicuous place in the premises during those times when dancing is taking place. It shall be unlawful for any person to post a permit or to be permitted to post it upon premises other than those mentioned in the application, or knowingly to deface or destroy a permit.

h. Dancing shall be permitted only during normal tavern operating hours as established by s. 90-15-3.

i. No permit shall be required for dancing in taverns on New Year's Eve or New Year's Day.

4. INSTRUMENTAL MUSIC LICENSE. Instrumental music shall not be permitted on a licensed premises unless the premises is licensed as a tavern dance premises, tavern amusement premises or licensed to permit the playing of instrumental music. No dancing shall be permitted under a license issued for instrumental music. The license shall permit singing on the part of, and only by, one or more of the persons engaged in playing a musical instrument.

5. PRERECORDED MUSIC MACHINE PREMISES LICENSE (RECORD SPINS). A prerecorded music machine premises license must be obtained by a licensee to permit the operation of any prerecorded music machine, whether mechanical, electrical, or tape, other than radio or coin operated phonograph, by a person other than the licensee, when the device is operated by an entertainer or celebrity

accompanied by commentary or presentation.

90-34. Licenses Required. No person licensed to sell alcoholic beverages shall offer, suffer or permit in the place for which said license is granted, any dancing, whether public or private or exhibitions or entertainment of whatsoever nature commonly classed under the term "cabaret," "night club," "floor show," "performance" or to prerecorded music, without having first obtained a license as provided in s. 90-33; provided, however, that instrumental music shall not be prohibited except as hereinafter provided.

90-35. Licensing. 1. FINDINGS. The common council finds that frequently the type of entertainment provided by licensed alcohol beverage establishments can be a source of noise, litter, large and unruly congregations of people, and traffic and parking congestion that adversely affects the health, safety and welfare of the people of the city of Milwaukee. This section is established pursuant to the authority of the common council to legislate and license for the protection of the health, safety and welfare of the people of the city of Milwaukee and to diminish the undesirable secondary effects that can result from these operations.

2. APPLICATION. a. Applications for licenses issued under s. 90-33 shall be filed with the city clerk on a form provided therefore. The application shall be signed by the applicant, if an individual, or by a duly authorized agent or officer of a corporation or limited liability corporation, and sworn to by the applicant.

b. The application shall require:

b-1. The name and address of the specific premises intended to be licensed.

b-2. Whether the applicant has, within 2 years prior to the date of application, been licensed to conduct a public dance hall or tavern in the city.

b-3. The location where the applicant conducted such licensed premises, if any.

b-4. The name of the person or company owning the premises for which a license permit is requested.

b-5. A description, with particularity, of the type of entertainment, exhibitions, music, dancing, singing, floor show or other performances to be held on the premises, in order for the common council to determine whether or not the applicant's proposed operations are basically compatible with the normal activity of the neighborhood in which the licensed premises is to be located.

3. DEPOSIT OF FEE; REFUND.

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a. Required. Each applicant before filing his or her application with the city clerk shall deposit with the city treasurer the fee fixed for such license in ch. 81 and it shall be the duty of the city treasurer to accept such deposit, issue receipt therefor and cause a record to be kept thereof. When a license is granted by the common council, it shall be the duty of the city treasurer to apply such deposit as full payment of the license applied for and granted.

b. Refund. A deposit on all applications denied by the common council, or withdrawn by authority of the proper licensing committee, shall be refunded by the city treasurer upon surrender of the deposit receipt certified to by the city clerk. It shall be the duty of the city clerk to enter on all applications filed with him the amount deposited by the city treasurer, together with the date and number of the treasurer's receipt, and all such applications shall be accompanied by the treasurer's deposit receipt for the license fee. In the event such license is denied, such fee shall be returned by the city treasurer upon due demand.

4. ISSUANCE. a. Applications shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health, all of whom shall cause an investigation to be made and report their findings to the proper licensing committee of the common council.

b. Applications for all licenses issued under s. 90-33 shall be referred by the city clerk to the proper licensing committee of the common council for its recommendation to the common council as to whether each license should be issued. The committee shall forward its recommendation in writing to the common council for vote at the next meeting at which such matter will be considered.

c. In the event any person or entity files with the city clerk a written objection to the proposed events and entertainment indicated on the application under sub. 2-b-5, the licensing committee shall hold a hearing upon the application or amendment to any application. The committee may, within its sound discretion and based on competent evidence, appropriately amend or alter the proposed types of entertainment of the licensed applicant. Considerations for approval, denial, amendment or alteration of any proposed entertainment license shall relate to noise, litter, traffic congestion, inadequate parking, unruly patrons, damage to property, lewd and lascivious behavior and like problems impacting on the health, safety and welfare of the neighborhood.

d. When approved by the common council, the licensed applicant will be prohibited from deviating from the plan of entertainment approved by the common council.

5. ISSUANCE OF CERTIFICATE; POSTING. If the common council grants the application for the license, the city clerk shall issue a certificate of authorized entertainment containing the type of entertainment, exhibitions, music, dancing, singing, floorshow or other performances permitted to be held on the premises. Each certificate issued under this section shall be posted in a conspicuous place for review by any police officer.

6. LICENSE FEES. See ch. 81 for the required license fees and terms.

7. CHANGE IN ENTERTAINMENT. If, after the license has been granted or issued, the licensee wishes to substantially deviate from the type of entertainment that was listed on the original application, the licensee must file a sworn, written request with the city clerk which states the change in the type of entertainment. No changes in entertainment shall take place until the request has been approved by the common council. The common council's approval may be given only if it determines that the new type of entertainment is basically compatible with the normal activity of the neighborhood in which the licensed premises is located.

8. TRANSFERABILITY. a. Every tavern amusement, tavern dance and

instrumental music license shall be issued for a period of one year or part thereof, effective from the date that the license is granted, and shall expire on the same date as the Class "B" retail intoxicating liquor or fermented malt beverage retail establishment license or Class "C" wine retail license. The fee for each such license shall be payable for the entire license year or any fraction thereof.

b. Every tavern dance, tavern amusement and instrumental music license issued under this chapter may be transferred from one premises to another within the city upon the approval of the common council and the payment of the transfer fee required in ch. 81, but no licensee shall be entitled to more than one transfer in any one license year. The new premises must comply in all respects with this chapter as if a new application were being made.

9. RENEWAL. a. Application. Applications for renewals of licenses, if favorably approved by the chief of police, commissioner of neighborhood services and the commissioner of health, shall be automatically renewed upon receipt by the city clerk, unless there is an objection to the renewal by any other interested person. If there is such an objection, then the utilities and licenses committee shall hold a hearing on whether or not to renew the license. Grounds for nonrenewal shall include disorderly conduct on or around the premises, noise or music which disturbs the neighbors of the licensed premises, the violation of any ordinance, law or any other good cause reasonably related to the protection of health, safety and welfare of the neighborhood in which the licensed premises is operated. The licensee shall receive at least 3 working days' notice of the specific charges upon which the hearing will be conducted, and shall have an opportunity to appear at the hearing and be represented by counsel and to cross examine witnesses against the renewal of the license and to present evidence in favor of renewal of the license. At the conclusion of the hearing, the committee shall make a recommendation to the common council and the common council shall act on that recommendation without further hearing.

b. Building Alteration; Inspection.

b-1. No alterations, changes or additions shall be made to such designated licensed premises without first securing a permit for such alterations, changes or additions from the commissioner of city development.

b-2. Although a license has been previously issued and granted by the common council, the commissioner of neighborhood services shall make an inspection of the premises, and where such inspection discloses a violation of any regulations applicable to tavern amusement and tavern dance occupancy permit it shall be the commissioner's duty to, after notice to the licensee and owner of the premises, file with the common council and the committee a report of such violation, inspection and investigation. Where such investigation discloses, after a hearing before the license committee, failure to comply with the orders of the commissioner of neighborhood services, it shall be sufficient cause to revoke the license previously granted.

10. SUSPENSION OR REVOCATION. Any license issued under s. 90-33 may be suspended or revoked by the common council for the violation of any of the rules, regulations or laws governing or applying to premises licensed under s. 90-33, including the falsifying of information or the failure to disclose information on the application.

11. REQUEST TO SURRENDER A LICENSE. a. In the event that a licensee wishes to surrender his or her license after receiving a notice for a hearing on non-renewal, revocation or suspension, the licensee must request, in writing, permission from the proper licensing committee of the common council to do so prior to the commencement of the hearing. The committee may approve the request, or deny the request and proceed with the hearing.

b. In the event a licensee who has surrendered his or her license wishes to have the surrendered license returned, regardless of whether the license was surrendered pursuant to par. a, the licensee must request, in writing, permission from the licensing committee to do so and appear before the committee at the date, time and place specified in written notice provided to the licensee by the city clerk. The committee may approve the request and return

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the license without further action by the common council, or make a recommendation to the common council to deny the request based on the same grounds set forth in this section for non-renewal or revocation. If the committee makes a recommendation to deny the request for the return of the license, all committee recommendations shall be prepared and common council actions conducted in the same manner set forth in this section for non-renewal or revocation.

12. DISQUALIFICATION.

a. Whenever an applicant for a new license has had his or her application denied or any license is denied renewal or is revoked for a reason not relating to the fitness of the location of the premises, it shall be entered on the record by the city clerk and no license issued under s. 90-33 shall be granted to the same person for that location for a period of 12 months following the date of denial, non-renewal or revocation.

b. Whenever an applicant for a new license has had his or her application denied or any license is denied renewal or is revoked for a reason relating to the fitness of the location of the premises to be licensed, no other application for the same license issued under s. 90-33 for the location shall be recommended for approval by the licensing committee within 3 years of the date of the denial, non-renewal or revocation unless the applicant or the owner of the premises has demonstrated a change of circumstances since the prior denial, non-renewal or revocation. Before the committee considers any application, the applicant or the owner of the premises shall file with the city clerk a written statement setting forth the change in circumstances relating to the fitness of the location of the proposed licensed premises since the prior denial, non-renewal or revocation. In considering whether changed circumstances exist, the committee shall consider, among other factors:

b-1. A change in the type of license sought by an applicant.

b-2. A change in the number of businesses licensed under s. 90-33 in the neighborhood.

b-3. A change in zoning applicable to the subject property.

b-4. New developments of land uses in the vicinity of the subject property.

c. Hearing. c-1. Whenever an application accompanied by a written statement of changed circumstances is filed, the committee shall hold a hearing to determine if changed circumstances exist. At the hearing, testimony shall be limited to that of the applicant and the applicant's attorney with respect to demonstration of a change in circumstances.

c-1-a. If the committee determines that the applicant has failed to demonstrate that a sufficient change in circumstances exists to justify a new hearing on the merits, the committee shall recommend that the application be denied.

c-1-b. If the committee determines that a sufficient change in circumstances has been demonstrated to justify a new hearing on the merits, the committee shall schedule a separate hearing on whether the application should be recommended for approval or denial.

c-2. Whenever the owner of the premises has filed a written statement of changed circumstances and no application for a license issued under s. 90-33 involving the premises has been filed, the committee shall hold a hearing to determine if changed circumstances exist. At the hearing, testimony shall be limited to that of the owner of the premises and the owner's attorney with respect to demonstration of a change in circumstances.

c-2-a. If the committee determines that the owner of the premises has failed to demonstrate that a sufficient change in circumstances exists, no application for a license issued under s. 90-33 involving the location shall be recommended for approval by the licensing committee within 3 years of the date that the application for license issued under s. 90-33 for the location was denied, non-renewed or revoked for a reason relating to the fitness of the location of the premises.

c-2-b. If the committee determines that a sufficient change in circumstances has been demonstrated, an application for a license issued under s. 90-33 involving the location may be recommended for approval by the licensing committee.

d. Surrender. When any license is surrendered in lieu of a pending non-renewal, revocation or suspension proceeding, no other license issued under s. 90-33 shall be granted to the same person for a period of 12 months following the date of its surrender.

90-36. License Regulations. 1. HOURS FOR MUSIC. a. On a tavern amusement premises, no music, dancing or entertainment of any nature shall be permitted after 2 a.m., except on Saturdays and Sundays when entertainment is permitted until 2:30 a.m., and before 9 a.m. on weekdays and 10:30 a.m. on Sundays.

b. On a tavern ballroom premises no music, dancing or entertainment of any nature shall be permitted after 1:00 a.m. and before 9:00 a.m. on weekdays and 10:30 a.m. on Sundays.

c. On any premises licensed to permit the playing of instrumental music or licensed as a tavern dance, or licensed only for the sale of intoxicating liquor or fermented malt beverage, no music, dancing or entertainment of any nature except phonograph-soundies shall be permitted after 1 a.m. on weekdays and 1:30 a.m. on Sundays and before 9 a.m. on weekdays and 10:30 a.m. on Sundays. The playing of a phonograph-soundy shall not be permitted after 2 a.m., except on Saturdays and Sundays when playing is permitted until 2:30 a.m., and before 9 a.m. on weekdays or 10:30 a.m. on Sundays.

e. It is further provided that pars. a to c pertaining to the closing hour for cessation of music and entertainment shall not apply to New Year's Day.

2. CHIEF OF POLICE MAY EXTEND TIME. The chief of police may upon special occasion, in his discretion, upon application to him not less than 5 days prior to the date of such special occasion, fix the hours of the cessation of music and entertainment beyond the time in sub. 1. Nothing contained in the section shall prohibit dances or entertainment conducted in licensed dance halls in accordance with other sections of the code.

3. ADVERTISING OF DANCING. All advertising of dancing must state whether it is to be live or prerecorded music.

4. POSTING OF OCCUPANCY CAPACITY FOR CERTAIN CLASS "B" LICENSED ESTABLISHMENTS. a. Any establishment holding a Class "B" tavern or

Class "B" fermented malt beverage license, excepting restaurants, shall securely post and maintain official placards issued by the department of city development indicating the maximum permitted number of persons on the licensed premises as established by the commissioner of neighborhood services. Under this paragraph, if an establishment is operated under both a Class "B" tavern or Class "B" fermented malt beverage license and a food dealer's license, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.

b. No greater number of persons than the number indicated on the official placard shall be permitted on the licensed premises. Any tampering with the official placard shall be a violation of this section.

c. If the number of persons on the premises exceeds the limits set on the official placard, the police department shall order the number reduced to the permitted number. The police department may also order the establishment closed until it complies with this section. Refusal by a patron to leave the premises when ordered to do so shall be a violation of this section.

d. Any person convicted of violating this section shall be subject to a forfeiture of not less than \$200 nor more than \$1,000 and in default thereof, shall be imprisoned in the county jail or house of correction for a period not to exceed 40 days. Each violation of this section or refusal to comply with a police order by the establishment or a patron shall be considered a separate offense. Accumulated penalties recoverable in any one action shall not exceed \$10,000 for the first offense in a calendar year, \$15,000 for the second offense in a calendar year and \$25,000 for the third and each subsequent offense in a calendar year.

90-37. Centers for the Visual and Performing Arts. 1. FINDINGS. The Wisconsin state statutes create the designation "centers for the visual and performing arts" and exempts them from certain restrictions relating to the presence of underage persons on licensed Class "B" alcohol beverage premises. The state statutes do not, however, provide a definition for "centers for the visual and performing arts". The prevention of the underage consumption of

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alcohol and the regulation of alcohol beverage premises where underage persons congregate is a primary concern of the common council, given its responsibility to protect its most vulnerable residents. The common council finds, therefore, that it is essential to define and license "centers for the visual and performing arts" to help insure the health, safety and welfare of the people of the city of Milwaukee and, in this light, to grant this license infrequently and only after careful consideration, review and deliberation.

2. LICENSE REQUIRED.

a. No premise shall be deemed a center for the visual and performing arts without first obtaining a license as required in this section, except that no license shall be required of centers for the visual and performing arts operated by nonprofit organizations which, for the purposes of this provision, shall mean a federal, state or local unit of government or agency thereof, a public or private elementary, secondary or post-secondary school, or an organization that is described in s. 501(c)(3) of the internal revenue code of the United States of America and is exempt from taxation under s. 501(a) of this code.

b. Premises designated as centers for the visual and performing arts prior to September 27, 2003 shall comply with the terms and conditions of this section no later than December 31, 2004.

3. MINIMUM QUALIFICATIONS. No premise shall be licensed as a center for the visual and performing arts unless it fulfills all the relevant criteria of pars. a to c.

a. The operator of the premise shall hold a valid tavern amusement license for the same premise issued pursuant to s. 90-33-1.

b. A center for the visual and performing arts shall have either of the following:

b-1. At least one stage larger than 1,200 square feet in size.

b-2. A collection of recognized works of art placed on regular public display, as testified to before the licensing committee of the common council by recognized experts or art critics.

c. At a center for the visual and performing arts that is also a theater, the service of alcohol beverages shall be incidental

to the main function of the licensed premise as evidenced by the service of alcohol beverages no earlier than 2 hours before a given day's scheduled performance, no later than 2 hours after a given day's scheduled performance and only in a designated lobby area.

4. APPLICATION. a. Application for a center for a visual and performing arts license shall be filed with the city clerk on a form provided therefore. The application shall be signed by the applicant, if an individual, or by a duly authorized agent or officer of a corporation or limited liability corporation, and sworn to by the applicant.

b. The application shall require:

b-1. The name and permanent address of the applicant.

b-2. The name and address of the premise for which the license is to be granted, including the aldermanic district in which it is situated.

b-3. If the applicant is a corporation, the name of the corporation shall be set forth exactly as it is set forth in its articles of incorporation, together with the names and address of each of its officers, directors and designated managers, if any; the application shall be verified by an officer of the corporation.

b-4. If the applicant is a partnership, the application shall set forth the name and resident address of each of the partners, including limited partners, and the application shall be verified by each partner. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partners.

b-5. If the applicant is a club, association or other organization which is neither a corporation or partnership, the application shall set forth the exact name of the entity together with the names and resident addresses of all officers and be verified by an officer of the club, association, or organization.

b-6. All convictions, including ordinance violations exclusive of traffic violations, with a brief statement of the nature of the convictions and the jurisdiction in which the conviction occurred.

b-7. The date of birth of the applicant.

b-8. A completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall require:

b-8-a. The planned hours of operation for the premises.

b-8-b. The number of patrons expected on a daily basis at the premises.

b-8-c. The legal occupancy limit of the premises.

b-8-d. What plans, if any, the applicant has to insure underage persons are not served alcohol beverages at the premise and that alcohol beverages are not consumed by underage persons at the premise.

b-8-e. What plans, if any, the applicant has to insure that underage persons are not on the premise in violation of the city's curfew ordinance as set forth in s. 106-23.

b-8-f. The number of off-street parking spaces available at the premises.

b-8-g. Whether or not the premises will make use of sound amplification equipment and, if so, what kind.

b-8-h. What plans, if any, the applicant has to provide security for the premises.

b-8-i. What plans, if any, the applicant has to insure the orderly appearance and operation of the premises with respect to litter and noise.

b-9. Any other licenses held by the applicant or attached to the premises.

b-10. Such other reasonable and pertinent information the common council or the proper licensing committee may from time to time require.

5. ISSUANCE. a. Applications shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health, all of whom shall cause an investigation to be made and report their findings to the licensing committee.

b. The licensing committee shall hold a hearing on whether or not to issue each new license. If there is a possibility of denial, no hearing shall be heard unless the city clerk's office has provided written notice to the applicant. The notice shall be served upon the applicant so that the applicant has at least 3 days' notice of the hearing. The notice shall contain:

b-1. The date, time and place of the hearing.

b-2. A statement to the effect that the possibility of denial of the license application exists and the reasons for possible denial.

b-3. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for denial and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

b-4. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

c. If there is a possibility of denial, at the hearing the committee chair shall open the meeting by stating that a notice was sent and read the notice into the record unless the applicant admits notice. The chair shall advise the applicant that the applicant has an option to proceed with a due process hearing, represented by counsel, with all testimony both direct and cross-examination under oath, or that the applicant may simply make a statement to the committee.

d. A due process hearing shall be conducted in the following manner:

d-1. All witnesses will be sworn in.

d-2. The chair shall ask those opposed to the granting of the license to proceed first.

d-3. The applicant shall be permitted an opportunity to cross-examine.

d-4. After the conclusion of the opponent's testimony, the applicant shall be permitted to present the applicant's own witnesses, subject to cross-examination.

d-5. Committee members may ask questions of witnesses.

d-6. Both proponents and opponents shall be permitted a brief summary statement.

e. The recommendations of the committee regarding the applicant must be based on evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

e-1. Whether or not the applicant meets the municipal requirements, including those in sub. 3.

e-2. The appropriateness of the location and premises where the center for the visual and performing arts is to be located and whether the location will create undesirable neighborhood problems. Probative evidence relating to these matters may be taken from the

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plan of operation submitted pursuant to sub. 4-b-8. but not the content of any performance.

e-3. The applicant's record in operating similarly licensed premises.

e-4. Whether or not the applicant has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the licensed activity.

e-5. Any other factors which reasonably relate to the public health, safety and welfare.

f. The committee may make a recommendation immediately following the hearing or at a later date. This recommendation may include such revisions to the plan of operation submitted pursuant to sub 4-b-8 as the committee may deem necessary and which are agreed to by the applicant. Written notice of the committee's decision will be provided if the decision is made at a later date or if the applicant was not present or represented. The committee shall forward its recommendation in writing to the common council for vote at the next meeting at which such matter will be considered.

6. DEPOSIT OF FEE; REFUND.

a. Prior to issuance of a license, each applicant shall deposit with the city treasurer the full amount of the fee required in s. 81-17.7 for the license or permit applied for.

b. It shall be the duty of the city treasurer to accept the deposit, issue a receipt therefor, and cause a record to be kept thereof. When a license or permit is granted by the common council, it shall be the duty of the city treasurer to apply such deposit as full payment of the license or permit fee, upon receipt of certification thereof by the city clerk.

c. It shall be the duty of the city clerk to enter on all applications filed with him or her the amount deposited with the city treasurer, the date of the deposit and the number of the treasurer's receipt.

d. Upon the withdrawal or the common council's denial of a center for the visual and performing arts license application, the amount of \$50 of the application fee shall be retained by the city treasurer to defray the cost of investigation of facts and administration thereof. The remainder of the application fee and deposits on all applications denied by the common council shall be refunded by the city

treasurer upon surrender of the deposit receipt certified by the city clerk, provided that the certified deposit receipt is surrendered no later than one year after the date of the license denial.

7. FEES. See s. 81-17.7 for the required permit fees and terms.

8. CHANGE IN PLAN OF OPERATION. If, after the license has been granted or issued, the licensee wishes to substantially deviate from the plan of operation as submitted with the original application, the licensee shall file a sworn, written request with the city clerk which states the nature of the change. No change shall take place until the request has been approved by the common council. The common councils approval shall be given only if it determines, in the manner set forth in sub. 5-e-2, that the change is compatible with the normal activity of the neighborhood in which the premises is located.

9. RENEWAL OF LICENSES.

a. Procedure for Renewal Applications for the renewal of a center for the visual and performing arts license shall be made to the city clerk. The clerk shall refer the application for license renewal to the chief of police, the commissioner of neighborhood services and the commissioner of health for review. If the chief of police, the commissioner of neighborhood services and the commissioner of health indicate that the applicant still meets the licensing qualifications, the application shall be referred to the common council for approval unless a written objection has been filed with the city clerk at least 30 days prior to the date on which the license expires. This objection may be filed by any interested person. If a written objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee for its recommendation to the common council.

b. Procedure for Non-Renewal.

b-1. If there is a possibility that the committee will not renew a license, a motion should be entertained to hold the application in committee and instruct the city clerk to forward proper notice to the applicant, unless such proper notice has already been sent, in which case the hearing shall proceed.

b-2. Prior to the date set for the hearing, the city clerk's office shall forward notice to the applicant which shall contain:

b-2-a. The date, time and place of the hearing.

b-2-b. A statement of the common council's intention not to renew the license in the event any objections to renewal are found to be true.

b-2-c. A statement of the reasons for non-renewal.

b-2-d. A statement that an opportunity will be given to respond to and challenge such reasons for non-renewal and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

b-2-e. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

c. Hearings. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub. 11.

d. Disqualification. Whenever any license is denied renewal, it shall be entered on the record by the city clerk and no center for the visual and performing arts license shall be granted to the same person for that location for a period of 12 months following the date of non-renewal.

e. Surrender. When any license is surrendered in lieu of a pending non-renewal proceeding, no other center for the visual and performing arts license shall be granted to the same person for a period of 12 months following the date of its surrender.

10. REVOCATION. a. Any license issued under this section may be revoked for cause by the common council after notice to the licensee and a hearing.

b. Revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any city resident.

c. Whenever either sworn written charges or a sworn written complaint are filed with the city clerk setting forth specific charges

against a licensee involving conduct which would violate ordinances that are grounds for revocation of a license, the city clerk shall issue notice to the licensee of the licensing committee's intention to hear the matter. The notice shall be served upon the licensee so that the licensee has at least 10 working days' notice of the hearing. The notice shall contain:

c-1. The date, time and place of the hearing.

c-2. A statement to the effect that the possibility of revocation of the license exists and the reasons for possible revocation.

c-3. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for revocation and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

c-4. A statement that the licensee may be represented by an attorney of the licensee's choice at the licensee's expense, if the licensee so wishes.

d. The licensing committee shall convene at the date and time designated in the notice for the purpose of taking evidence and making findings of fact and conclusions of law and a recommendation to the common council in connection with the proposed revocation.

e. If the licensee appears before the committee at the time designated in the summons and denies the charges contained in the complaint, an evidentiary hearing in connection with the revocation shall be conducted by the committee at that time. If the licensee does not appear, or appears but does not deny the charges contained in the complaint, the complaint shall be taken as true and the committee shall hear the arguments of the complaints and the licensee in connection with the revocation.

f. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub 11.

11. HEARING PROCEDURE.

a. Authority of Licensing Committee. The licensing committee shall conduct hearings with respect to the non-renewal or revocation of a center for the visual

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and performing arts license pursuant to this subsection. The chair of the licensing committee shall be the presiding officer.

b. Committee Hearing Procedure.

b-1. The chair shall direct that oaths be administered and subpoenas issued upon request of either side.

b-2. The chair shall ensure that an orderly hearing is conducted in accordance with the requirements of this subsection.

b-3. The chair shall rule on objections to the admissibility of evidence. Any ruling of the chair shall be final unless appealed to the committee, and the committee shall reverse such ruling only upon the vote of a majority of its members.

b-4. At all stages of the proceedings before the committee or before the common council, the licensee shall be entitled to appear both in person and by an attorney.

c. Record. A stenographic record shall be made of all proceedings before the committee and before the common council when written exceptions have been filed. Any interested party may at any stage of the proceedings order a copy of the transcript of the record or portions thereof at his or her own expense.

d. Grounds for Non-Renewal or Revocation. The recommendation of the committee regarding the licensee must be based on evidence presented at the hearing. Probative evidence concerning non-renewal or revocation may include evidence of:

d-1. Failure of the licensee to meet the municipal qualifications.

d-2. Failure of the licensee to operate the premise in accordance with the plan of operation submitted pursuant to sub. 4-b-8.

d-3. Pending charges against or the conviction of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the circumstances of the particular licensed activity, by the licensee, his or her employees, or patrons.

d-4. Neighborhood problems due to management or location.

d-5. Any other factor or factors which reasonably relate to the public health, safety and welfare.

e. Committee Report. The committee may make a recommendation immediately following the hearing or at a later date. The committee may recommend that the license be renewed, not renewed or revoked. All non-renewals and revocations shall be effective upon service of notice of the non-renewal or revocation upon the licensee or person in charge of the premises at the time of service.

f. Council Action.

f-1. Within 10 working days after it reaches a decision, the committee shall prepare and serve a report and recommendation on the licensee. The report and recommendations shall include specific findings of fact and conclusions of law made by the committee. The report shall be distributed to each member of the common council.

f-2. If the committee recommends that the license not be renewed or be revoked then within 7 days of the receipt of the report and recommendation of the committee, the licensee may file written exceptions to the report and recommendations of the committee.

f-3. Any exceptions filed by the licensee to the report and recommendations of the committee shall be provided to each member of the common council at least 24 hours before any vote on the question is scheduled before the full common council.

f-4. At a meeting of the common council following the receipt of the report and recommendations of the committee, the common council shall consider the report and recommendation. Not less than 5 days prior to the hearing before the common council, the city clerk shall notify the licensee and complainant by certified mail and also notify the city attorney that the common council will convene. Each member of the common council shall be asked to affirm that he or she has read the report and recommendation of the committee. When written exceptions are filed to a committee report and recommendation that the license be revoked or not renewed, each member of the common council shall be asked to affirm that he or she has read the exceptions. If members of the council have not read the recommendation and report of the committee and any exceptions that have been

filed thereto, the chair shall allocate time for the members to do so. Oral argument in support of the report and recommendation presented by the city attorney, oral argument on behalf of the licensee in opposition to the report and recommendation and oral argument by the complainant objecting to the report and recommendation shall be permitted only at the discretion of the chair. If argument is permitted by the chair, argument shall be limited to 5 minutes and the arguments shall be limited to the subject matter of the report and recommendation and the written exceptions. Licensees shall appear only in person or by counsel. Corporate licensees shall appear only by the agent or by counsel. Partnerships shall be represented only by a partner or by counsel. Limited liability companies shall be represented only by the agent or by counsel. Complainants shall appear only in person or by counsel. Any person making an appearance before the council pursuant to this subsection and who requires the services of an interpreter shall obtain one at his or her own expense.

f-5. The common council shall determine by a majority vote of those in attendance and voting whether to adopt the recommendation of the committee. The vote shall be a roll call vote. If the common council finds the complaint to be true, or if there is no objection to a report recommending non-renewal or revocation with the committee's report and recommendation, the city clerk shall give notice of each nonrenewal or revocation to the person whose license is not renewed or revoked. If the common council finds the complaint to be untrue, the proceedings shall be dismissed without cost to the accused. If the common council finds the complaint to be malicious and without probable cause, the cost shall be paid by the complainant upon invoice from the city.

12. REQUEST TO SURRENDER A LICENSE. a. If a licensee wishes to surrender his or her license after receiving a notice for a hearing on non-renewal or revocation, the licensee must request, in writing, permission from the licensing committee to do so prior to the commencement of the hearing. The committee may approve the request, or deny the request and proceed with the hearing.

b. In the event a licensee who has surrendered his or her license wishes to have the surrendered license returned, regardless of whether the license was surrendered pursuant to par. a, the licensee must request, in writing, permission from the licensing committee to do so and appear before the committee at the date, time and place specified in written notice provided to the licensee by the city clerk. The committee may approve the request and return the license without further action by the common council, or make a recommendation to the common council to deny the request based on the same grounds set forth in this section for non-renewal or revocation. If the committee makes a recommendation to deny the request for the return of the license, all committee recommendations shall be prepared and common council actions conducted in the same manner set forth in this section for non-renewal or revocation.

13. ALTERATION TO PREMISES. Any alteration, change or addition resulting in expansion of a licensed premises shall be approved by the licensing committee prior to issuance of a license, pursuant to s. 200-24, by the department of city development. An applicant whose application has been denied by the committee may appeal the decision to the common council.

14. PENALTY. Any person convicted of violating this section shall be fined not less than \$500 nor more than \$2,000 for each violation, plus costs of prosecution, and, in default thereof, be imprisoned for a period not to exceed 80 days, or until forfeiture costs are paid.

90-39. Alcoholic Beverages on School Premises Prohibited. **1. LIQUOR OR FERMENTED MALT BEVERAGES.** It shall be unlawful for any person to possess or consume intoxicating liquor or fermented malt beverages in any school or on any school premises in the city; in a motor vehicle, if a pupil attending the school is in a motor vehicle; or while participating in a school-sponsored activity; provided, however, that alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities, if specifically permitted in writing by the school administrator consistent with applicable laws, ordinances and

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Milwaukee school board policies. For purposes of this subsection, "school" means a public, parochial or private school which provides an educational program for one or more grades between grades one and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school; "school premises" means premises owned, rented or under the control of a school; and "motor vehicle" means a motor vehicle owned, rented or consigned to a school.

2. PENALTY. a. Persons Who Have Attained the Legal drinking Age. Any person who has attained the legal drinking age and is found guilty of violating this section shall be subject to a forfeiture not to exceed \$200, and in default of payment thereof, shall be imprisoned in the county jail or house of correction of Milwaukee County for a period not to exceed 30 days.

b. Underaged Persons. Any underaged person found guilty of violating this section shall be subject to the penalties provided in s. 125.07(4) Wis. Stats.

90-40. Penalty, General. Any person who violates any of the provisions of this chapter shall, where no other provisions are expressly made for the enforcement of any forfeitures or penalties under this chapter, upon conviction be subject to a forfeiture of not more than \$1,000 and in default thereof, shall be imprisoned in the county jail or house of correction for a period not to exceed 40 days.

"For legislative history of chapter 90, contact the Legislative Reference Bureau."

[Pages 398c-398d are blank]

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